

#. **SUBJECT: DENILQUIN LOCAL ENVIRONMENTAL PLAN 2013 – PLANNING PROPOSAL No 7 (KYALITE STABLES)**

**FROM: MANAGER ECONOMIC AND BUSINESS DEVELOPMENT
John Harvie**

**PREPARED BY: MANAGER ENVIRONMENTAL SERVICES
JULIE ROGERS**

RECOMMENDATION/S:

Division

In accordance with the requirements of the Local Government Act, it is necessary for Council to call a division when voting of any resolution relating to a relevant planning application.

- a Prepare an amended planning proposal for Lots 2 and 3 DP562598 and Lot 1 DP 1121183 being 21701 – 21703 Riverina Highway, Deniliquin to amend the Deniliquin Local Environmental Plan 2013 in accordance with section 55(1) of the Environmental Planning and Assessment Act 1979 to rezone it from RU1 Primary Production to R5 Large Lot Residential and to insert additional planning controls to apply to the subject site.
- b Forward the planning proposal to the Minister for Planning and Infrastructure in accordance with section 56(1) of the Environmental Planning and Assessment Act 1979.
- c Request that the local planning making functions in relation to this planning proposal be delegated to Council.

BACKGROUND:

At its meeting on 14 December 2011 Council resolved:

‘That Council forward the Kyalite Stable Planning Proposal to the Minister for Planning and Infrastructure for gateway determination in accordance with section 56(1) of the Environmental Planning and Assessment Act 1979 to amend the Deniliquin Local Environmental Plan 1997 to rezone part Lot 3 DP562598, Lot 2 DP562598 and Lot 1 DP1121183 Riverina Highway from 1(a) General Rural to R5 Large Lot Residential’.

The planning proposal was forwarded to the then Department of Planning and Infrastructure who requested additional information. Council provided the additional information on 21 March 2012. A gateway determination was subsequently issued on 25 October 2012 subject to a number of conditions.

Since the issuing of the gateway determination, the planning proposal has effectively been on hold at the request of the proponent. Work recommenced on the planning proposal in 2015 and included a planning focus meeting with the proponent, Council and the Office of Environment and Heritage. Significant progress has been made on the planning proposal and an amended planning proposal has now been prepared. It is intended that Council will submit the amended planning proposal to the Department of Planning and Environment (the Department) and request an amended gateway determination.

Attachment 1 is the amended planning proposal and it includes the original planning proposal and gateway determination.

GATEWAY DETERMINATION

The initial gateway determination included the following conditions:

- a Council to address inconsistencies with Section 117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 2.1 Environmental Protection Zones and demonstrate how it intends to facilitate the protection and conservation of environmentally sensitive lands.
- b Council to address the requirements of State Environmental Planning Policy 55 Remediation of Land and the Contaminated Land Planning Guidelines. An initial site contamination investigation is to be prepared demonstrating that the site is suitable for rezoning to the proposed zone.
- c Council to address specific principles of clause 10 of the Murray Regional Environmental Plan No 2 – Riverine Land.
- d Community consultation must be undertaken in accordance with the Environmental Planning and Assessment Act and the terms of the gateway determination.
- e Consultation to be undertaken with the following public authorities:
 - Commonwealth Civil Aviation Safety Authority – as per the requirements of Section 117 Direction 3.5 Development Near Licensed Aerodromes;
 - Murray Catchment Management Authority
 - NSW Department of Primary Industries – Agriculture
 - NSW Department of Primary Industries (Minerals and Petroleum) – as per the requirements of Section 117 Direction 1.3 Mining, Petroleum and Extractive Industries;
 - Office of Environment and Heritage (Flooding and NSW National Parks and Wildlife Service) – with respect to flooding and to address the requirements of Section 117 Direction Flood Prone Land;
 - NSW Rural Fire Service – as per the requirements of Section 117 Direction 4.4 Planning for Bushfire Protection;
 - Transport for NSW (Roads and Maritime Services) – address the requirements of Section 117 Direction 6.2 Reserving Land for Public Purposes.

GOVERNMENT AGENCY CONSULTATION

Government agency consultation was undertaken in accordance with the gateway determination. Letters were sent to government agencies as detailed in the condition 6 of the gateway determination on 20 November 2012 and responses were received from the following agencies:

- Commonwealth Civil Aviation Safety Authority
- Office of Environment and Heritage
- NSW Rural Fire Service
- Roads and Maritime Services

The responses from these agencies are in the amended planning proposal (Attachment 1).

RECOMMENCEMENT OF WORK IN 2015

Work recommenced on the project in 2015 and as previously stated, a planning focus meeting was held between the proponent, Office of

Environment and Heritage and Council staff on 24 June 2015 to discuss flooding, biodiversity and Aboriginal cultural heritage.

Since this time, Council has engaged relevant specialists and has been working with the proponent and the government departments to address these key issues. In addition to this, the amended planning proposal also addresses all of the other matters identified in the gateway determination.

The planning proposal has been prepared in accordance with '*A Guide to Preparing Planning Proposal*' (NSW Planning Infrastructure, 2012).

PUBLIC PARTICIPATION AND GOVERNMENT AGENCY CONSULTATION

In accordance with section 57 of the Environmental Planning and Assessment Act, it is proposed to exhibit the planning proposal for 28 days in the local media and on Council's website. The adjoining property owners will be notified.

Council undertook government agency consultation as required by the gateway determination. It is expected that the amended gateway determination will require additional government agency consultation.

STRATEGIC IMPLICATIONS:

An amendment to LEP 2013 is required to achieve the objectives of the planning proposal.

BUDGETARY IMPLICATIONS:

The proponent is meeting the cost of the preparation of the planning proposal including the cost of the specialist studies.

POLICY IMPLICATIONS:

Nil.

LEGISLATIVE IMPLICATIONS:

To amend the LEP 2013 a planning proposal must be prepared in accordance with section 55 of the Environmental Planning and Assessment Act (the Act). This planning proposal is then forwarded to the Department of Planning in accordance with section 56(1) of the Act and a gateway determination is then issued in accordance with section 56(2).

Council will request that the plan making delegations functions be delegated to Council due to the minor nature of the planning proposal. Attachment 2 is the request for the delegation of plan making functions to Council.

RISK ASSESSMENT:

What can happen?

Amend the LEP to achieve the objectives of the planning proposal.

How can it happen?

By preparing a planning proposal.

What are the consequences of the event happening?

Likely rezoning of the subject site.

What is the likelihood of the event happening?

High. The amended planning proposal addresses all of the conditions of the original gateway determination.

Adequacy of existing controls?

This is an amendment to the LEP 2013.

Treatment options to mitigate the risk?

Prepare a planning proposal.

CONCLUSION:

Council should submit the planning proposal to the Department for a revised gateway determination.

ATTACHMENTS:

1. Attachment 1 – Amended Planning Proposal (September 2016) – 209 pages
 2. Attachment 2 – Evaluation Criteria for the Delegation of Plan Making Functions – 4 pages
-