

**Deniliquin Local Environmental Plan 2013 - Model clause inclusion for subdivision of land
in zone RU1 Primary Production**

Proposal Title :	Deniliquin Local Environmental Plan 2013 - Model clause inclusion for subdivision of land in zone RU1 Primary Production		
Proposal Summary :	The insertion of a model clause into the Deniliquin LEP 2013 to permit subdivision of land to create a lot that is less than the minimum lot size in zone RU1 Primary Production where Council is satisfied that the lot will be used for a use permitted under an existing development consent for the land.		
PP Number :	PP_2014_DENIL_002_00	Dop File No :	14/14909

Proposal Details

Date Planning Proposal Received :	01-Sep-2014	LGA covered :	Deniliquin
Region :	Western	RPA :	Deniliquin Council
State Electorate :	MURRAY DARLING	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	Deniliquin Shire Council		

DoP Planning Officer Contact Details

Contact Name :	Rebecca Kell
Contact Number :	0268412195
Contact Email :	rebecca.kell@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Julie Rogers
Contact Number :	0358983029
Contact Email :	julie.rogers@deniliquin.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Wayne Garnsey
Contact Number :	0268412180
Contact Email :	wayne.garnsey@planning.nsw.gov.au

Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :

Deniliquin Local Environmental Plan 2013 - Model clause inclusion for subdivision of land in zone RU1 Primary Production

MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **The proposal is inconsistent with SEPP (Rural Lands) 2008 and s117 Direction 1.5 Rural Lands.**

Council does not have local, regional or sub-regional strategic documents in place so the justification of the inconsistencies to be of a minor nature are:

- the economic benefit to be gained by reducing the unnecessary sterilisation of RU1 Primary Production land
- that Council believes the clause will be utilised sparingly given how limited development is in the Council area
- the proposed clause is consistent with the model clause for subdivision with a current permissible use
- that Council had a similar provision in the LEP 1997; there is precedent for the proposal to proceed.
- the model clause will provide flexibility for Council dealing with local development matters.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **To permit the subdivision of land to create a lot that is less than the minimum lot size in the zone RU1 Primary Production where Council is satisfied that the lot would be used for a use permitted under an existing development consent for that land.**

This clause would not apply to lots where there is residential accommodation

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The proposed outcome will be achieved by amending the LEP 2013 by inserting the**

following model clause into Part 4:

"Exceptions to minimum lot sizes for certain rural subdivisions

(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purposes of residential accommodation.

(2) This clause applies to land in zone RU1 Primary Production.

(3) Land to which this clause applies may, with development consent, be subdivided to create a lot of a size that is less than the minimum lot size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that the use of the land after the subdivision will be the same use (other than residential accommodation) permitted under the existing development consent for the land.

(4) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that:

- (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and
- (b) the subdivision is necessary for the ongoing operation of the permissible use, and
- (c) the subdivision will not increase rural land use conflict in the locality, and
- (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land."

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA : **1.5 Rural Lands**

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP (Rural Lands) 2008**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **The proposed clause is consistent with the model clause for subdivision with a current permissible use.**

Council has a similar provision in the Deniliquin LEP 1997 (clause 13).

Deniliquin Council does not have a local strategy or other local strategic plan and there is no regional or sub-regional strategy for the Deniliquin Local Government Area.

The inconsistency with s117 Direction 1.5 Rural Lands and SEPP (Rural Lands) 2008 is justified given consideration of the Rural Subdivision Principles and that it is unlikely to result in a significant number of subdivisions under this clause. In addition to this, the subdivision of land will only be permissible for legally established uses and will prevent the unnecessary sterilisation of rural lands.

The planning proposal will not result in significant rural land fragmentation as it only applies to those non-agricultural uses for which development consent has been obtained. The clause is unlikely to result in a significant number of lots being created under this clause given the rate and types of development occurring in Deniliquin. In addition to this, these non agricultural uses are permissible in the zone RU1 Primary

Deniliquin Local Environmental Plan 2013 - Model clause inclusion for subdivision of land in zone RU1 Primary Production

Production and should be able to operate from land that is suitable for these purposes with unnecessarily sterilising agricultural land.

The minimisation of rural land use conflicts can be adequately addressed at the development application stage.

Consideration of the natural and physical constraints and opportunities of land are identified in the LEP 2013 and will be adequately addressed at the development application assessment stage.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The planing proposal is for the insertion of a model clause that applies to all land zone RU1 Primary Production. No changes or matters concerning mapping are proposed.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **In accordance with s57 of the EP&A Act, Council proposes to exhibit the planning proposal for 14 days in the local media and on Council's website and adjoining Councils will be notified.**

The proposed community consultation process is acceptable.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria?

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Deniliquin LEP 2013 was notified on 23 December 2013.**

Assessment Criteria

Need for planning proposal : **The clause will enable subdivision in particular circumstances and will aid economic development in the uses that are permissible in zone RU1 Primary Production as the land will be able to be utilised at a size that is suitable for the use.**

The clause will mean that land that is not required for non agricultural uses will not be unnecessarily sterilised due to the minimum lot size in the zone RU1 Primary Production.

Consistency with strategic planning framework : **Deniliquin Council does not have a local strategy or other local strategic plan.**

There is no regional or sub-regional strategy for the Deniliquin Local Government Area.

Deniliquin Local Environmental Plan 2013 - Model clause inclusion for subdivision of land in zone RU1 Primary Production

Environmental social economic impacts : **Any environmental, social or economic impact would be identified and considered at the development application stage.**

The clause will enable subdivision in particular circumstances and will aid economic development for uses that are permissible in zone RU1 Primary Production.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Letter from council dated 28 August 2014.pdf	Proposal Covering Letter	No
Deniliquin_planning proposal no 2.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.5 Rural Lands**

Additional Information : **The Planning Proposal should proceed with the following conditions:**

- 1. Community consultation is required under section 57 of the EP&A Act as follows:**
 - a. The planning proposal is required to be made publicly available on exhibition for 14 days as described in A Guide to Preparing LEPs (Department of Planning and**

**Deniliquin Local Environmental Plan 2013 - Model clause inclusion for subdivision of land
in zone RU1 Primary Production**

Infrastructure 2012)

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.

No consultation with agencies is required.

2. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

3. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination

Supporting Reasons :

The planning proposal intends to encourage the development of agricultural related uses and a range of non agricultural uses that are compatible with the character of the RU1 Primary Production zone.

Clause 4.2 of the LEP 2013 permits the subdivision of land in zone RU1 Primary Production to create a lot less than the minimum lot size where that lot is being created for the purpose of primary production.

Primary Production is not defined in the LEP 2013, so the term does not define the uses which are permissible in the zone, for example: camping grounds, eco-tourist facilities, landscaping material supplies, depots etc. These uses do not necessarily need a land area that complies with the 40ha minimum lot size in zone RU1 Primary Production in order to operate.

The inclusion of this clause in the LEP 2013 would mean that those uses, where they have development consent, would be able to create a lot on which they are established that is less than the minimum lot size.

This is considered to be a minor matter for which the General Manager, Western region is able to exercise delegation to issue a Gateway Determination.

Signature:



Printed Name:

Rebecca Kell

Date:

16/9/14

Endorsed
W Hamsey 16/9/14
A/TL