

**#. SUBJECT DENILIQUN LOCAL ENVIRONMENTAL PLAN 2013
(AMENDMENT No 3)**

**FROM: DIRECTOR TECHNICAL SERVICES
MARK DALZELL**

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 that involves making a planning decision.

That Council:

1. In accordance with section 59(2) of the Environmental Planning and Assessment Act make the proposed Deniliquin Local Environmental Plan 2013 (Amendment 3); and
2. Upon signing of the proposed Deniliquin Local Environmental Plan 2013 (Amendment 3) by Council's delegate, that the Department of Planning and Environment be notified of Council's decision.

BACKGROUND:

At its meeting on 27 March 2015, Council resolved to:

- a Prepare a planning proposal to amend the Deniliquin Local Environmental Plan 2013 in accordance with section 55(1) of the Environmental Planning and Assessment Act 1979 to rezone Lots 1-3 DP585942 and Lot 2 DP383553 known as 69 Hardinge Street from R1 General Residential to B2 Local Centre and to rezone Lot 12 DP1105250 Decimus Street from RE1 Public Recreation to R1 General Residential.
- 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.

Council has now complied with the conditions of the gateway determination and the instrument can be made. Attachments 1 and 2 are maps showing the location of the subject property. Attachment 3 is a copy of the amending instrument, maps and the Parliamentary Counsel's opinion stating that the instrument can be made.

COMMENT

Following Council's decision on 27 March 2015, the planning proposal was forwarded to the Department of Planning and Environment (the Department) on 27 March 2015. A gateway determination and a written authorisation to exercise delegation were issued by the Department on 14 April 2015.

The gateway determination required changes to be made to the lot size maps to reflect the proposed changes in zoning. In addition to this, the incorrect lot number was used to describe the land in Decimus Street. As a result of this,

the planning proposal had to be amended and sent to the Department for their approval prior to the exhibition of the planning proposal. Attachment 4 is the amended planning proposal and Attachment 5 is the gateway determination and letter dated 30 April 2015 confirming that the relevant conditions of the gateway determination had been satisfied and advising that Council could proceed to public exhibition.

The planning proposal was exhibited in accordance with section 57 of the Environmental Planning and Assessment Act (the Act) for a period of 14 days and one submission was received.

The drafting of the instrument has been completed and it can now be made. As Council has been given delegation to make the instrument, Council is required to resolve in accordance with section 59(2) or (3) of the Act on whether it wishes to make the instrument. Section 59(2) and (3) states:

(2) The Minister may, following completion of community consultation:

(a) make a local environmental plan (with or without variation of the proposals submitted by the relevant planning authority) in the terms the Minister considers appropriate, or

(b) decide not to make the proposed local environmental plan.

(3) The Minister may defer the inclusion of a matter in a proposed local environmental plan.

It is recommended that the instrument be made. Should Council resolve to make the instrument, it will be signed by Council under delegation and then forwarded to the Department requesting that the instrument be notified on the NSW legislation website. The instrument will commence on the day it is notified.

PUBLIC EXHIBITION

The planning proposal was exhibited from 4 May to 18 May 2015 and one submission was received which is Attachment 6.

The submission was made in relation to the rezoning of 69 Hardinge Street. The author of the submission stated that they had read all of the documentation for the proposed rezoning and that they did not see any particular detrimental impact on their property. However, the submission did request that the developer have regard to adjoining owners in terms of minimising negative impacts from the future development of the land. Secondly, the submission requested that notice to adjoining owners be given where major works are proposed eg creation of dust.

In response to the submission, it appears to be focussed on issues that are generally considered when a development application is being assessed and as such does not relate to the planning proposal. Council has recently issued development consent for a commercial building on this site for uses which are currently permissible in the R1 General Residential zone. This submission was considered during the assessment of the application and an advising was placed on the development consent that the developer is to make adjoining

owners aware of any works on site which are planned that may create dust or any other nuisance. The consent was also conditioned specifying hours of construction.

GOVERNMENT AGENCY SUBMISSIONS

The gateway determination required Council to consult with the Civil Aviation Safety Authority (CASA) and the Roads and Maritime Service (RMS).

CASA

CASA advised that they had no objection to the planning proposal. Attachment 7 is the submission from CASA.

RMS

The RMS advised that they had no objection to the Decimus Street rezoning. However, the RMS had the following comments (in summary) in relation to Hardinge Street:

- Land along Hardinge Street that is zoned B2 Local Centre is mostly located on the southern side of the street with land on the northern side zoned for residential purposes. It is noted that commercial activities are currently located on the northern side of Hardinge Street as the R1 zoning does allow for some limited commercial activities.
- Rezoning for higher use along the highway generally represents ribbon development and generates increased pedestrian and vehicular interaction to and from and across Hardinge Street (which is also the Cobb Highway). RMS questions the justification for the rezoning as it appears that land currently zoned B2 is available on the southern side of the Hardinge Street. The planning proposal does not appear to be supported by any justification for the rezoning of the subject site.
- As the planning proposal is for a site of a limited size that has frontage and access to a local road (being Poicitiers Street) in addition to its frontage to Hardinge Street, the RMS does not object to the planning proposal.
- From the information provided it appears that the proposed rezoning will not represent significant changes to the potential impacts permitted by the current LEP in relation to traffic movement within the current classified road network therefore RMS would not object to the intent of the planning proposal as exhibited.

In response to the RMS submission, the rezoning of 69 Hardinge Street does not represent ribbon development along a highway as it relates to one site. Access is available from a local road and it is in the intention of the applicant to utilise this access. Attachment 8 is the submission from the RMS.

STRATEGIC IMPLICATIONS:

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

BUDGETARY IMPLICATIONS:

Council's Fees and Charges 2014/15 requires a fee of \$1090 to be paid to initiate a rezoning and then all costs for the rezoning are to be paid by the proponent once the \$1090 has been expended. The proponent (owner of 69 Hardinge Street) has paid the fee and has had discussions with the General Manager about paying the costs of the work once the \$1090 has been expended.

The owner of the Decimus Street land is not required to pay the cost of the rezoning. This rezoning is to correct an anomaly in the LEP 2013 and is considered to be a routine matter.

POLICY IMPLICATIONS:

Nil.

LEGISLATIVE IMPLICATIONS:

Amendments to the LEP 2013 must be in accordance with the Act.

RISK ASSESSMENT:

What can happen?

Land could be rezoned.

How can it happen?

By preparing a planning proposal.

What are the consequences of the event happening?

Land is rezoned.

What is the likelihood of the event happening?

High as it is recommended to Council that the amendment be made.

Adequacy of existing controls?

Amendments to LEP 2013 have been requested by the owner for one site and have been instigated by Council to correct an anomaly for another site.

Treatment options to mitigate the risk?

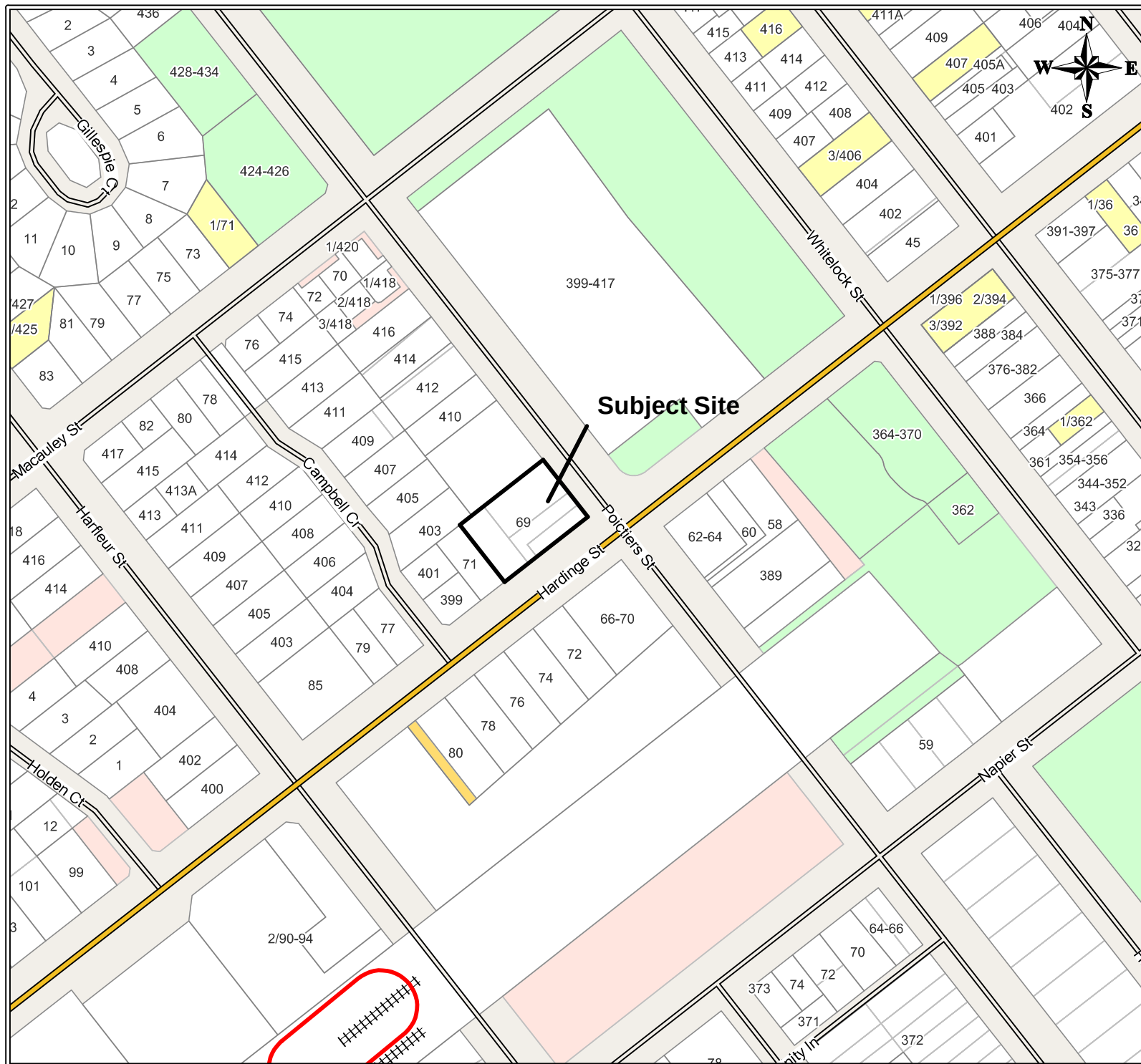
Prepare a planning proposal.

CONCLUSION:

Council should submit the planning proposal to the Department and request that it be made.

ATTACHMENTS:

1. Attachment 1 – Location of 69 Hardinge Street – 1 page
 2. Attachment 2 – Location of Lot 11 DP1105942 – 1 page
 3. Attachment 3 – Draft amending instrument and associated maps and Parliamentary Counsel's opinion
 4. Attachment 4 – Amended planning proposal
 5. Attachment 5 – Gateway determination and Department letter dated 30 April 2015
 6. Attachment 6 – Submission
 7. Attachment 7 – Submission from CASA
 8. Attachment 8 – Submission from RMS
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69 Hardinge Street



LEGEND

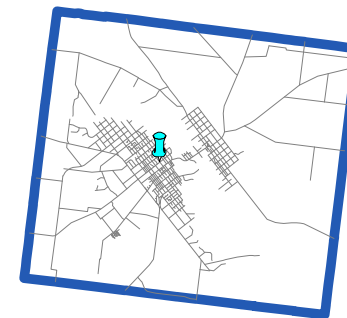
PROPERTY

Parcel	
Parcel (unmatched)	
Property	
State Forest	
Lake	
Waterway	
Road	
Railway	
Bridge	
Transmission Line	
Airport	

ZONE INDEX

1. RURAL	
1(a)-General Rural	
1(c)-Rural Small Holdings	
1(f) -Rural (Forest)	
2. URBAN	
Residential	
Commercial	
Industrial	
6. OPEN SPACE	
Private	
Public	

Overview Map



MapScale: 1 : 3000

DISCLAIMER:

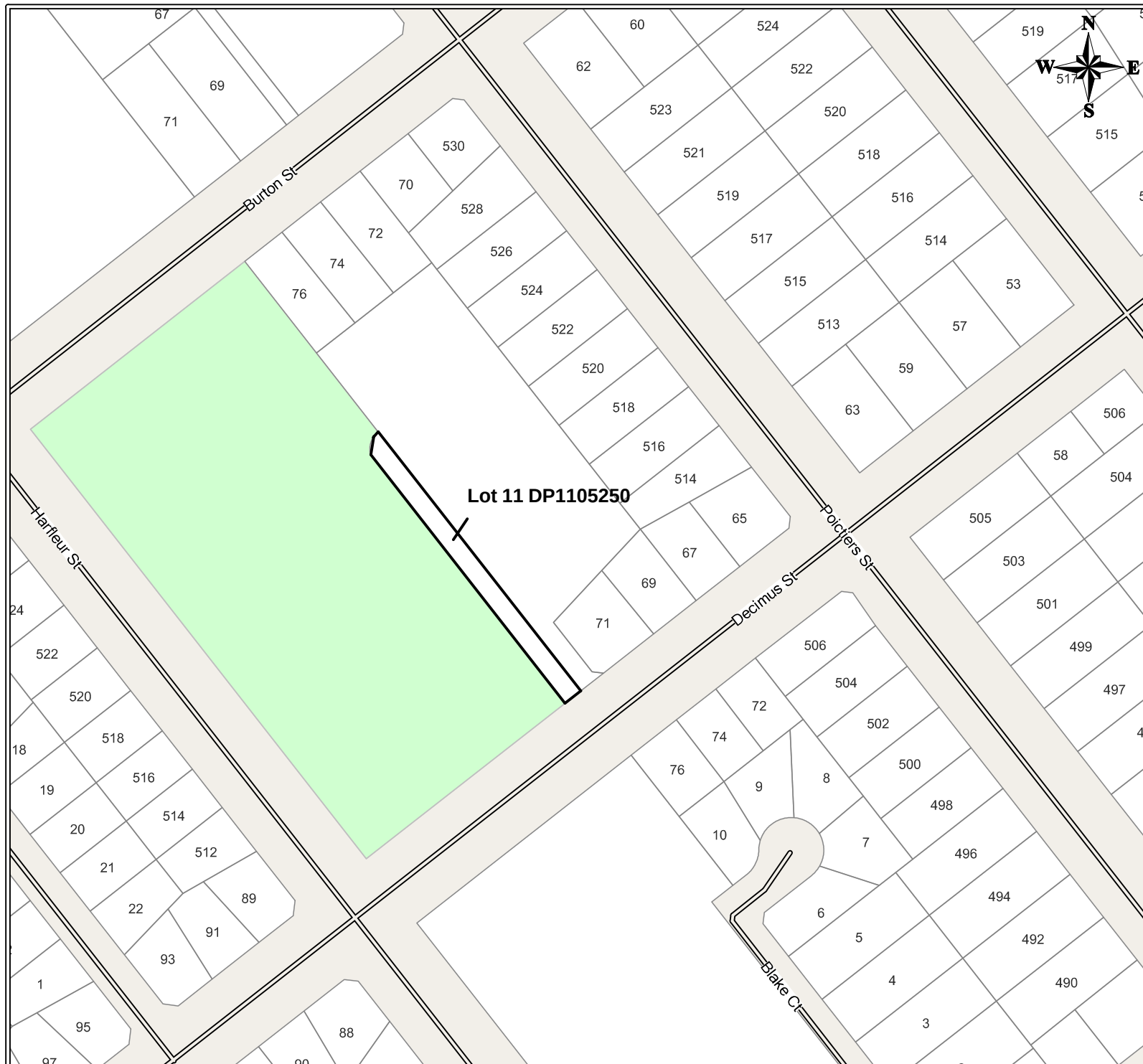
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Printed: 30/04/2015

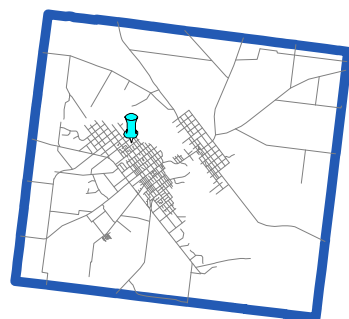


Lot 11 DP1105250 Decimus Street

LEGEND

PROPERTY		ZONE INDEX	
Parcel		1. RURAL	
Parcel (unmatched)		1(a)-General Rural	
Property		1(c)-Rural Small Holdings	
State Forest		1(f) -Rural (Forest)	
Lake		2. URBAN	
Waterway		Residential	
Road		Commercial	
Railway		Industrial	
Bridge		6. OPEN SPACE	
Transmission Line		Private	
Airport		Public	

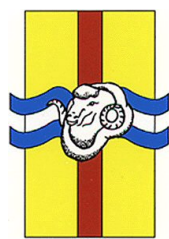
Overview Map



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Environmental Planning and Assessment Act 1979

Deniliquin Local Environmental Plan 2013 (Amendment No 3)

Deniliquin Council
PO Box 270, Civic Place
Deniliquin, NSW, 2710

Map Cover Sheet

The following map sheet is revoked:

Map Sheet	Map Identification Number
Lot Size Map LSZ_005	2500_COM_LSZ_005_020_20140324
Land Zoning Map LZN_005	2500_COM_LSZ_005_020_20131210

The following map sheet is adopted:

Map Sheet	Map Identification Number
Lot Size Map LSZ_005	2500_COM_LSZ_005_020_20150430
Land Zoning Map LZN_005	2500_COM_LSZ_005_020_20150430

Certified

[Name of Council Delegate]

as delegate for the Minister for Planning

[Date]



**Deniliquin Local
Environmental
Plan 2013**

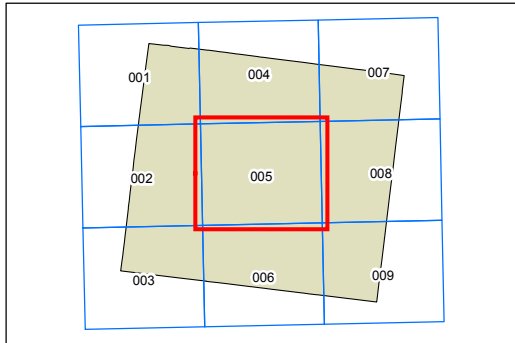
Lot Size Map - Sheet LSZ_005

Minimum Lot Size (sq m)

- F** 400
- Y** 1 ha
- AB** 40 ha
- Refer to Clause 4.1 (4A)

Cadastre

Cadastre 22/11/2010 © Land and Property Information (LPI)
Addendum data 02/12/13 © Deniliquin Council

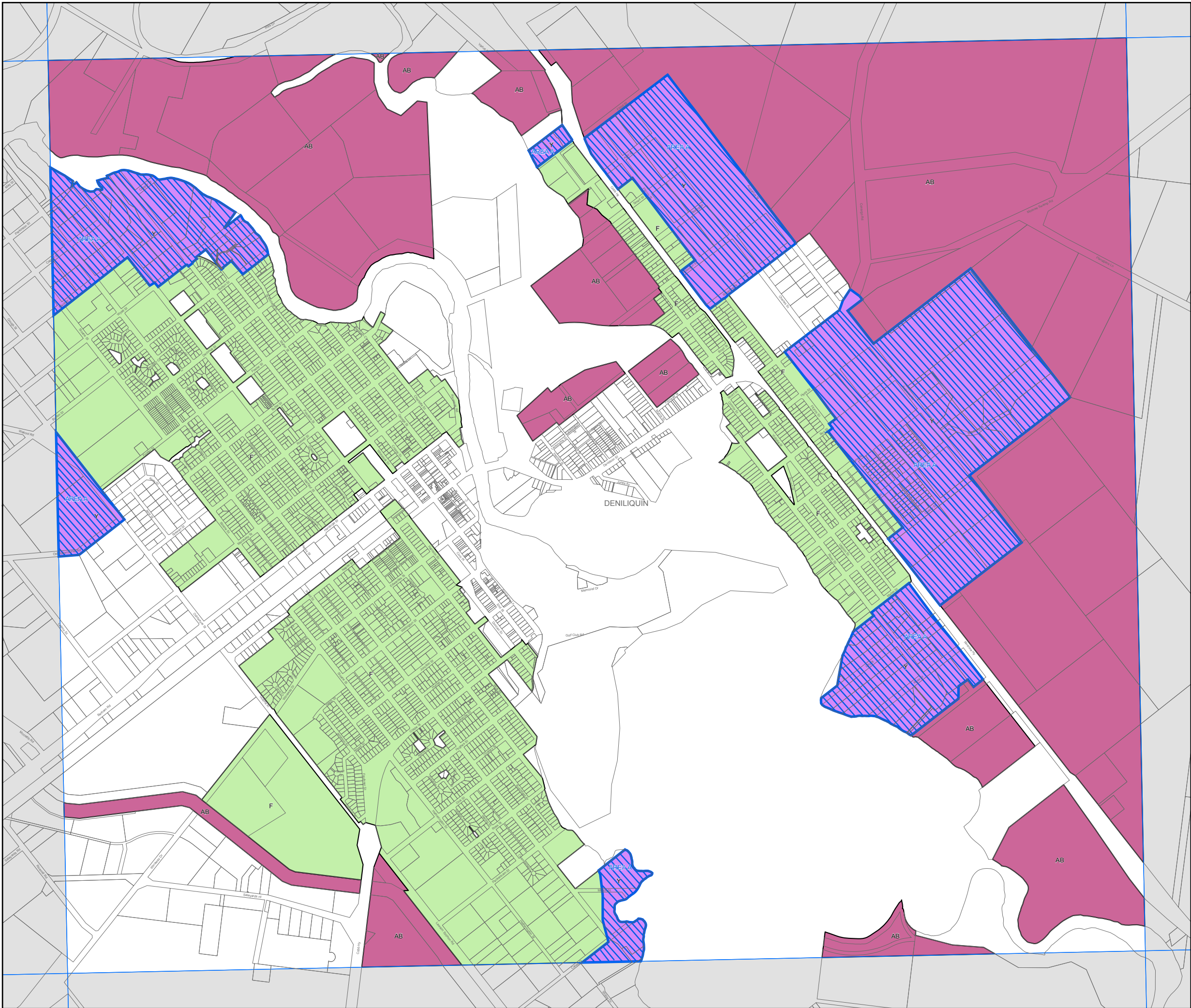


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Projection: GDA 1994
MGA Zone 55

Map identification number: 2500_COM_LSZ_005_020_20150430





Deniliquin Local Environmental Plan 2013

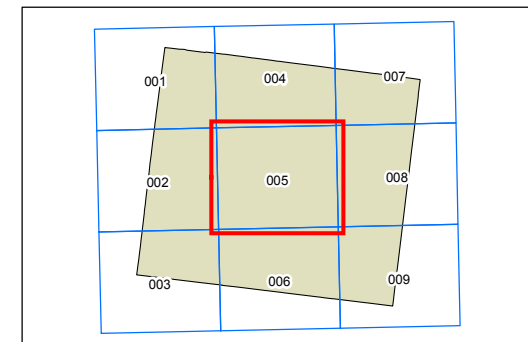
Land Zoning Map - Sheet LZN_005

Zone

- B2** Local Centre
- B6** Enterprise Corridor
- E1** National Parks and Nature Reserves
- E3** Environmental Management
- IN1** General Industrial
- R1** General Residential
- R5** Large Lot Residential
- RE1** Public Recreation
- RE2** Private Recreation
- RU1** Primary Production
- SP2** Infrastructure
- W1** Natural Waterways
- W2** Recreational Waterways
- DM** Deferred Matter

Cadastre

Cadastre 22/11/2010 © Land and Property Information (LPI)
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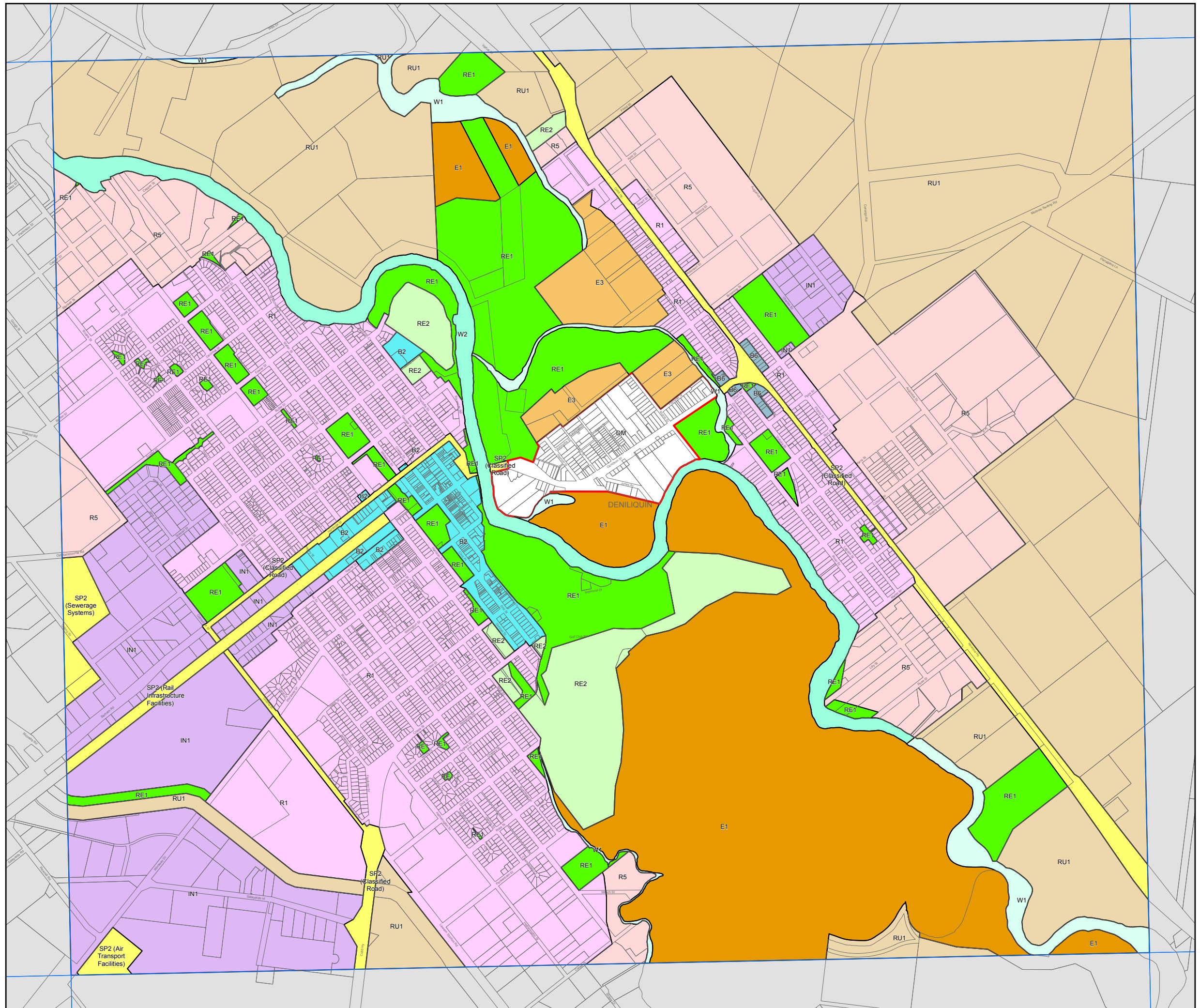


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Projection: GDA 1994
MGA Zone 55

Map identification number: 2500_COM_LZN_005_020_20150430





Planning Proposal No 3

This planning proposal has been prepared to rezone 69 Hardinge Street from R1 General Residential to B2 Local Centre to permit the development of the land for commercial purposes and to rezone Lot 11 DP1105250 Decimus Street from RE1 Public Recreation to R1 General Residential to correct a zoning error.

**Amended Version – Amendments made as required by Gateway Determination.
Approved for exhibition by the Department on 28 April 2015.**

1 OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to permit the development of 69 Hardinge Street for commercial purposes and to correct a zoning anomaly for land located in Decimus Street.

2 SUBJECT SITES

69 Hardinge Street

This property consists of 4 lots known as Lots 1-3 DP585942 and Lot 2 DP383553 and has a total area of approximately 2360m². It has frontage to both Poictiers and Hardinge Streets and Hardinge Street is a classified main road. The site is currently vacant but Lot 2 DP383553 was previously occupied by a shed (has been demolished) and Lots 1-3 DP585942 was occupied by three lowset terrace houses which by the time of their demolition (2007/2008) were in poor condition. There is no vegetation on the site. Figure 1 contains a map showing the location of the site.



Figure 1 Location of 69 Hardinge Street

The subject site is currently zoned R1 General Residential and it is proposed to rezone it to B2 Local Centre. The general area is one of mixed use. Whilst the immediate adjoining land

Since the demolition of the buildings on the site Council has conducted a number of pre DA meetings for the use of the land. The majority of these meetings have been about establishing commercial uses on the site.

Decimus Street

Lot 11 DP1105250 Decimus Street is currently zoned RE1 Public Recreation and is in private ownership. The subject site has an area of approximately 884m². Figure 3 shows the location of the subject site and the zoning and Figure 4 provides an aerial view of the site.

The subject site is located between two parcels of land. Land to the south west is zoned RE1 Public Recreation and is known as Crown Reserve 88943 under the care and management of Council and is reserved for public recreation. The adjoining lot (Lot 26 DP845007 Decimus Street) to the north east is zoned R1 General Residential. This lot along with the subject site are in the same private ownership.



Figure 3 Existing Zoning – Decimus Street



Figure 4 Aerial View – Decimus Street

A development application has been lodged with Council for a 7 lot subdivision of Lot 26 DP845007 Decimus Street and it is proposed to construct a road to access the subdivision on Lot 11 DP1105250. It is at this point that this zoning anomaly became apparent. Whilst roads are permissible with consent in the RE1 Public Recreation zone, it is preferable that given that the land is in private ownership that it be zoned R1 General Residential.

PART 3 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- **69 Hardinge Street** – amending Land Zoning Map Sheet 5 of the Deniliquin Local Environmental Plan 2013 by changing the zone from R1 General Residential to B2 Local Centre. The Lot Size Map Sheet 5 of the Deniliquin Local Environmental Plan 2013 will be amended by changing the minimum lot size from 400m² to nil ie no minimum lot size.
- **Decimus Street** – amending Land Zoning Map Sheet 5 of the Deniliquin Local Environmental Plan 2013 by changing the zone from RE1 Public Recreation to R1 General Residential. The Lot Size Map Sheet 5 of the Deniliquin Local Environmental

Plan 2013 will be amended by changing the minimum lot size from nil (ie no minimum lot size) to 400m².

PART 4 JUSTIFICATION

69 Hardinge Street

The owner of the land has requested that Council rezone this land from R1 General Residential to B2 Local Centre. The purpose of the rezoning would allow the land to be developed for commercial purposes that are permissible within the B2 zone. In particular, it is intended to construct two buildings each with floor area for office/showroom/retailing and an attached warehouse. Whilst the buildings could be adapted for a variety of uses that are permissible in the B2 zone, the owner has specifically identified that the buildings would be suitable to be used as bulky goods premises. The buildings would provide a large area for the handling, display or storage of goods and as the site has a dual road frontage, direct vehicular access to the site for purpose of loading or unloading goods into or from vehicles after purchase or hire could be readily achieved. The owner of the land has also identified the difficulty in obtaining greenfield sites zoned B2 in Deniliquin.

Available B2 Land

Council has undertaken a desk top analysis of land zoned B2 under LEP 2013 and determined that there is 24.3ha zoned B2 and only 2.6ha of this land is vacant. This 2.6ha consisting of nine parcels of land:

- 116-118 Hardinge Street – 4873m² that is not available for development;
- Railway land, Hardinge Street – 1.4ha that is being handed back to the NSW State Government which Council will then seek to acquire for seniors housing;
- 72 Hardinge Street – area of 1028m². This is not available for development and would not have sufficient area for the proposed development.
- 76 Hardinge Street – area of 1078m². This is not available for development and would not have sufficient area for the proposed development.
- 89 End Street – area of 1012m². Owned by Deniliquin RSL and not available for development.
- 73-81 End Street – consists of 4 lots with a total area of 4048m². Owned by Deniliquin RSL. Would have sufficient area for the development but is not available for development.

Council is aware that there are limited greenfield sites available for development in the B2 zone and in particular with main road frontage. The availability of greenfield sites across the whole of the B2 zone has been a recurring issue for some time and this is evident to Council through the pre DA meetings held with potential applicants looking to establish themselves in the CBD.

Impact of R1 Land

In addition to this, Council has adequate greenfield residential land available for development. Council estimates that it has in excess of 120ha in greenfield sites and this site represents a loss of less than 1% of the total greenfield residential land available in Deniliquin.

Location of Site

The subject site is located in an area of mixed use and is within close proximity to the existing B2 zone. Figure 2 shows the types of uses occurring within the immediate vicinity of the site. Within a 100m radius of the site there are a number of commercial uses occurring including two childcare centres, real estate office, offices of the Deniliquin Ute Muster, vet clinic, town band hall, auto parts retailer, Riverina TAFE and a carpet and curtains retailer.

Site Suitability

The subject site is highly suitable for commercial uses. The size of the subject site and the fact that it is vacant means that the buildings can be constructed that are purpose built for the future use in a desirable location (ie main road frontage). This site has main road frontage and a second frontage to a local road. This double frontage will allow for better access to the site, ensures that vehicles will enter and exit the site in a forward direction, limits the number of driveways required on a main road and overall allows for more efficient vehicle and site management.

Impact on Adjoining Uses

There is a dwelling on the south west boundary and units on north west boundary. The dwelling is offset from the common boundary by 5.2m and the units are offset by 3.5m. The developer is proposing to offset the proposed building 9m from the south west boundary. This setback is to accommodate an 'exit only' driveway and to ensure adequate distance from a sewer main which is approximately 6.8m from this boundary. On the north west boundary, the proposed building will be setback 8m to accommodate an 'entry only' driveway off Poictiers Street. The proposed layout of the buildings on the site will minimise any impacts on the adjoining residential properties. Whilst consideration is only being given at this stage to the rezoning, a future DA for the site will give Council the opportunity to undertake a full assessment of the potential impacts.

Zoning Mechanism

Council has given consideration to either retaining the current zone and inserting an additional use into Schedule 1 for this site or making bulky goods premises permissible in the R1 zone so that they would be permissible throughout that zone. The use of Schedule 1 would be inconsistent with Section 117 Direction Site Specific Provisions and inserting bulky goods premises into the R1 zone as a permissible use would make this use available to R1

land in Deniliquin and would potentially long term undermine the existing B2 zone. Council considers that rezoning the land to B2 to be the best mechanism for achieving the proposed outcome and ensures that if the development did occur that the development will be viable given that the buildings will be purpose built and that a range of commercial uses would be available to the site.

Davidson Street/B6 Land

In the deferred area under LEP 2013, Council has land that is zoned 2(Urban) under LEP 1997. This land is predominantly used for residential/commercial/light industrial uses eg car dealerships, service station, rural supplies, cabinet maker, food and drink premises, dwellings etc. This land is located within a floodway (identified in the Edward River at Deniliquin Flood Study (2014)) and there is currently no vacant land available in this area. There is also a small area of B6 land in North Deniliquin with one vacant parcel of land with an area of 1050m². Whilst some of this land has frontage to a classified main road this land is not as desirable as land in South Deniliquin.

Decimus Street

This land is zoned RE1 Public Recreation but is in private ownership and as such is not available for public recreation. Council has no interest or plans in acquiring the land for public recreation. The owner of the land has lodged a development application for the subdivision of an adjoining lot and is proposing to construct a road over the subject lot. Whilst roads are permissible with consent in the RE1 Public Recreation zone, the zoning should be changed to reflect the adjoining zones.

Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

69 Hardinge Street

A planning proposal is the best means of achieving the objectives or intended outcomes. The R1 General Residential zone only provides for a limited amount of commercial uses in the zone. Council has provided justification above for the proposed rezoning.

Decimus Street

The subject site could retain the RE1 zone and it is unlikely that there would be significant consequences as a result of this. However, given that the land will form part of a residential subdivision, it is privately owned and Council has no interest in acquiring the land for a public reserve, rezoning the land will correct this anomaly.

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

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

Is the planning proposal consistent with a council local strategy or other local strategic plan?

Deniliquin Council does not have a local strategy or other local strategic plan.

Is the planning proposal consistent with the applicable State Environmental Planning Policies?

No. All SEPPs are considered in Appendix 1.

Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

No. All S117 directions are considered in Appendix 2.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Hardinge Street

There are unlikely to be any other likely environmental effects resulting from this planning proposal. The land is within an established urban area, is currently vacant and no environmental issues are evident from the assessment of this rezoning.

Decimus Street

No. This part of the planning proposal is to correct a zoning anomaly.

Has the planning proposal adequately addressed any social and economic effects?

Hardinge Street

Yes. Justification of the rezoning has been provided. Council does not envisage any significant detrimental social and/or economics impacts from the rezoning.

Decimus Street

Not applicable. This part of the planning proposal is to correct a zoning anomaly.

Is there adequate public infrastructure for the planning proposal?

No.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council has not consulted any state and Commonwealth public authorities in preparing this planning proposal. Council proposes to consult with the Road and Maritime Services regarding 69 Hardinge Street.

PART 5 MAPPING

Mapping Changes – 69 Hardinge Street

Figure 5 shows the proposed zone and Figure 6 shows the proposed minimum lot size for 69 Hardinge Street.



Figure 5 Proposed B2 Zone – 69 Hardinge Street



Figure 6 Proposed minimum lot size – 69 Hardinge Street

Map Changes – Decimus Street

Figure 7 shows the proposed zone and Figure 8 shows the proposed minimum lot size for Decimus Street.



Figure 7 Proposed R1 Zone – Decimus Street



Figure 8 Minimum lot size – Decimus Street

PART 6 COMMUNITY CONSULTATION

In accordance with section 57 of the Environmental Planning and Assessment Act, it is proposed to exhibit the planning proposal for 14 days in the local media and on Council's website, a sign will be placed on both sites and letters will be sent to adjoining owners.

PART 7 PROJECT TIMELINE

Given the nature of the amendment, Council proposes to complete the amendment in 6 months.



Appendix 1

Consideration of State Environmental Planning Policies

SEPPs	Consistent	Comments
SEPP 21 Caravan Parks	n/a	-
SEPP 30 Intensive Agriculture	n/a	-
SEPP 32 Urban Consolidation (Redevelopment of Urban Land)	No Yes	This SEPP applies to all urban land in NSW and as such applies to this proposal. Cl 6 requires Council to consider whether urban is no longer needed or used for the purposes for which it is currently zoned or used, whether it is suitable for redevelopment for multi-unit housing and related development in accordance with the aims and objectives of this SEPP and whether action should be taken to make the land available for such redevelopment. Hardinge Street Under the current zoning of the land multi dwelling housing is permissible with consent. Should the land be rezoned to B2 Local Centre then multi dwelling housing will be prohibited in the zone. This means that the proposed rezoning is inconsistent with this SEPP. The proposed inconsistency is considered to be justified as there is in excess of 120ha of land zoned R1 General Residential and multi dwelling housing is permissible with consent in the R1 zone. Decimus Street The rezoning of this land to R1 General Residential will mean additional land will be available for multi dwelling housing.
SEPP 33 Hazardous and Offensive Development	n/a	-
SEPP 36 Manufactured Home Estates	Yes	Clause 6 of the SEPP states that a manufactured home estate may be carried on land on which a caravan parks is permissible with consent. Hardinge Street

		A caravan park is currently permissible with consent in the R1 General Residential zone and will be permissible with consent in the B2 Local Centre should the rezoning proceed. This means that the permissibility of manufactured home estates will not be affected by the rezoning of this site. <i>Decimus Street</i> Under the current zoning, a caravan park is prohibited in the RE1 Public Recreation zone and as such, a manufactured home estate would also be prohibited. However, the rezoning of this land to R1 General Residential will mean that caravan parks will be permissible with consent as will manufactured home estates. The planning proposal is considered to be consistent with this SEPP as the rezoning will mean that manufactured home estates will be permissible with consent on both of the subject sites.
SEPP 50 Canal Estate Development	n/a	-
SEPP 52 Farm Dams and Other Works in Land and Water Management Plan Areas	n/a	-
SEPP 55 Remediation of Land	Yes	Council is required to considered cl6 of this SEPP where a rezoning is proposed. <i>Hardinge Street</i> The property history for this site does not indicate that a use referred to in Table 1 of the contaminated land planning guidelines has been carried out on this site. Whilst the uses listed in clause 6(4) of the SEPP are permissible with consent in the zone, the owner of the land has not indicated an intention to develop the land for any of these purposes. <i>Decimus Street</i> The property history for this site does not indicate that a use referred to in Table 1 of the contaminated land planning guidelines has been carried out on this site.

		Whilst the uses listed in clause 6(4) of the SEPP are permissible with consent in the zone, a development application has been lodged for this lot and the adjoining lot (Lot 26 DP845007) for a residential subdivision and it is proposed to construct a road over the subject site. Given that there is no evidence of any potential contamination and that it is proposed to erect a road over the land, no further investigation of this land is required.
SEPP 62 Sustainable Aquaculture	No	<i>Hardinge Street</i> Clause 7 of the SEPP states that pond based and/or tank based aquaculture (being small scale aquarium fish production) is permissible in the R1 General Residential zone subject to the requirements of Schedule 1 of the SEPP. Under the B2 Local Centre zone, the pond based aquaculture will be prohibited but tank based aquaculture will be permissible. This means that there will be a reduction of 2360m² of land available for pond based aquaculture in Deniliquin. However, this reduction in land available for this use is considered insignificant due to the amount of land (when considering cl 7) that will remain available ie the use will remain permissible in the RU1, R5, SP2, RE1, RE2, E3, W1 and W2 zones. <i>Decimus Street</i> Clause 7 of the SEPP states that pond based and/or tank based aquaculture is permissible in the RE1 Public Recreation zone subject to the requirements of the Schedule 1 of the SEPP. Under the R1 zone these uses will continue to be permissible but only where it is for the purpose of small scale aquarium fish production. Therefore the change of use will limit the range of pond based and/or tank based aquaculture that is permissible on this land. However this reduction in land available for this use is considered to insignificant due to the amount of land (when considering cl 7) that will remain available ie the use will remain permissible in the RU1, R5, SP2, RE1, RE2, E3, W1 and W2 zones.
SEPP 64 Advertising and Signage	Yes	<i>Hardinge Street</i> Clause 10 of this SEPP prohibits the display of an advertisement on residential

		land other than those signs which are listed in clause 9 of the SEPP. The rezoning of this land to B2 would mean that subject to assessment that signs identified under part 3 of the SEPP would be permissible in the zone. <i>Decimus Street</i> Clause 10 of this SEPP prohibits the display of an advertisement on open space land other than those signs which are listed in clause 9 of the SEPP. This would not change with the rezoning of the land to R1.
SEPP 65 Design Quality of Residential Flat Development	n/a Yes	<i>Hardinge Street</i> Residential flat buildings are permissible in the R1 zone and as such this SEPP applies to this land. However, the proposed rezoning would mean that residential flat buildings will be prohibited in the B2 zone. This SEPP is not considered applicable to the rezoning because the SEPP aims to improve the quality of residential flat building design. <i>Decimus Street</i> Residential flat buildings are prohibited in the RE1 zone. However, the proposed rezoning would mean that residential flat buildings will be permissible in the R1 zone. If a residential flat building is proposed for this land then this SEPP would apply.
SEPP 70 (Affordable Rental Housing) 2009	No Yes	<i>Hardinge Street</i> The proposed rezoning will impact on the amount of land that is available for certain development under this SEPP. However, as previously stated Deniliquin has in excess of 120ha of undeveloped residential land available and this rezoning will result in a reduction of this by 2360m². This reduction in land is not considered significant and in particular given that since this SEPP was gazetted in 2009 it has not been applied in Deniliquin. <i>Decimus Street</i> The proposed rezoning will mean that additional land would be available for

		development under this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	No	Hardinge Street The application of this SEPP to dwellings will not change with the proposed rezoning as dwellings are permissible in both the R1 and B2 zones. However the provisions will not apply to development where there is more than one dwelling as these types of dwellings are not permissible in the zone. However this inconsistency is not considered to be significant given that it is likely that Part J of the BCA will apply to any redevelopment of this land.
	Yes	Decimus Street Residential development will be permissible on this land should the rezoning proceed and it is likely that this SEPP would apply to this land.
SEPP (Exempt and Complying Development Codes) 2008	n/a	This planning proposal will not affect the operation of this SEPP in relation to the subject sites.
SEPP (Housing for Seniors or People with a Disability) 2004	Yes	Hardinge Street This SEPP applies to land that zoned primarily for urban purposes and where certain development is permitted on that land. It is considered that B2 land is land zoned primarily for urban purposes and as such the rezoning would be consistent with this SEPP.
		Decimus Street The rezoning of this land to R1 would mean that the land is zoned primarily for urban purposes and as such would increase the amount of land available for this type of development.
SEPP (Infrastructure) 2007	n/a	This planning proposal will not affect the operation of this SEPP in relation to the subject sites.
SEPP (Major Development) 2005	n/a	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	n/a	The permissibility or prohibition of the uses identified under the SEPP and their application to the subject site will not change as a result of this planning proposal.

SEPP (Miscellaneous Consent Provisions) 2007	n/a	This planning proposal will not affect the operation of this SEPP in relation to the subject sites.
SEPP (Rural Lands) 2008	n/a	
SEPP (State and Regional Development) 2011	n/a	This planning proposal will not affect the operation of this SEPP in relation to the subject sites.



Appendix 2

Consideration of Section 117 Directions

Section 117 Direction	Consistent	Comments
1.1 Business and Industrial Zones	Yes	Hardinge Street The planning proposal is consistent with this s117 direction as it proposes to increase the area of land available for business uses by 2360m ² . It is consistent with the objectives of the direction as it is not reducing the amount of land for business uses and the location of the land does not undermine the viability of the existing CBD as it is located within the vicinity of the existing CBD and in an area of mixed use.
	n/a	Decimus Street n/a
1.2 Rural Zones	-	-
1.3 Mining, Petroleum Production and Extractive Industries	-	The planning proposal will not result in the prohibition of the uses specified in clause 3(a) or restrict the potential development of resources specified in clause 3(b).
1.5 Rural Lands	-	-
2.1 Environment Protection Zones	n/a	-
2.3 Heritage Conservation	n/a	The LEP 2013 already has clauses relating to heritage conservation.
2.4 Recreation Vehicle Areas	n/a	-
3.1 Residential Zones	No	Hardinge Street In terms of Hardinge Street, the planning proposal will reduce the amount of land zoned R1 by 2360m ² . This reduction in land zoned R1 is of minor significance as Council estimates that it has in excess of 120ha available for development in this zone. The subject site represents less than 1% of the area of R1 land available in Deniliquin.
	Yes	Decimus Street In terms of Decimus Street, there will be an increase of land zoned R1 of 884m ² . This is consistent with this direction.
3.2 Caravan Parks and Manufactured Homes Estates	Yes	Hardinge Street A caravan park is currently permissible with consent in the R1 General Residential zone and will be permissible with consent in the B2 Local Centre should the rezoning

		proceed. As a caravan park is permissible in a B2 zone, manufactured home estates will also be permissible on this land in accordance with SEPP 36. <i>Decimus Street</i> Under the current zoning, a caravan park is prohibited in the RE1 Public Recreation zone and as such, a manufactured home estate would also be prohibited. However, the rezoning of this land to R1 General Residential will mean that caravan parks will be permissible with consent as will manufactured home estates (under SEPP 36). The planning proposal is consistent with this direction.
3.3 Home Occupations	n/a	This planning proposal does not affect the permissibility of home occupations in zones where dwellings are permissible.
3.4 Integrating Land Use and Transport	n/a	This direction is not considered applicable to this planning proposal as it is not proposed to open up large greenfield sites for development. The rezoning of these sites will not increase the need for public transport, the reliance on private transport is high regardless of these rezonings occurring and the rezonings will not affect the movement of freight.
3.5 Development Near Licensed Aerodromes	No	All land within the Deniliquin urban area is within the vicinity of a licensed aerodrome and regardless of whether this planning proposal proceeds, the impact on the subject sites will not change. Council has a clause in the LEP which deals with airspace operations and any such impacts can be determined through the assessment of development applications.
3.6 Shooting Ranges	n/a	-
4.3 Flood Prone Land	n/a	-
4.4 Planning for Bushfire Protection	n/a	-
6.1 Approval and Referral Requirements	n/a	-
6.2 Reserving Land for Public Purposes	n/a	The land at Decimus Street is zoned RE1 Public Recreation but the land is in private ownership. The land has not been identified by Council for acquisition.
6.3 Site Specific Provisions	Yes	Council considered amending Schedule 1 of LEP 2013 to permit development of the

		Hardinge Street site for a specific purpose (ie bulky goods premises). Given that this would have been inconsistent with this direction, Council has determined to rezone the land B2 Local Centre to permit a range of commercial uses. This is consistent with this direction.
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Mr Des Bilske
General Manager
Deniliquin Council
PO BOX 270
DENILIKUIN NSW 2710

Dear Mr Bilske

**Planning Proposal (PP_2015_DENIL_001_00) to amend Deniliquin LEP 2013 –
Rezone land at 69 Hardinge St and Lot 12 DP 1105942 Decimus St**

I am writing in response to Council's letter dated 27 March 2015 requesting a Gateway determination under section 56(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act) with respect to the planning proposal to amend the Deniliquin LEP 2013 to rezone land at 69 Hardinge Street and Lot 12 DP 1105942 Decimus Street, Deniliquin.

As a delegate of the Minister for Planning, I have determined the planning proposal should proceed subject to the conditions in the attached Gateway determination **(Attachment 1)**.

The Minister delegated plan making powers to Councils in October 2012. I note that Council has accepted this delegation. Having considered the nature of Council's planning proposal, I have decided to issue the attached authorisation for Council to exercise its delegation to make this plan **(Attachment 2)**.

The amending LEP is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to the Parliamentary Counsel's office 10 weeks before the projected publication date (parliamentary.counsel@pco.nsw.gov.au).

A copy of this request should also be forwarded to the Department for administrative purposes (westernregion@planning.nsw.gov.au).

The amended LEP maps and GIS data must be uploaded to the Departments FTP site at ftp://lepup:lep_upload@203.3.194.247/ and the map information emailed to pocgis@planning.nsw.gov.au (copy to westernregion@planning.nsw.gov.au).

The State Government is committed to reducing the time taken to complete 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 Act if the time frames outlined in this determination are not met.

In accordance with the Department's *A guide for the preparation of local environmental plans*, Attachment 5 – Delegated plan making reporting template is enclosed for Council's information (**Attachment 3**). Table 2 of the attachment must be completed and forward to westernregion@planning.nsw.gov.au when requesting that the planning proposal be notified.

Should you have any queries in regard to this matter, please contact Ms Nicole Dukinfield, Planning Officer of the Western Region, at the Department on (02) 6841 2180.

Yours sincerely

 14-14-2015

Ashley Albury
General Manager, Western Region

Enclosures: Attachment 1 - Gateway Determination
 Attachment 2 - Written Authorisation to Exercise Delegation
 Attachment 3 - Delegate Plan Making Reporting Template



Gateway Determination

Planning proposal (PP_2015_DENIL_001_00): to amend the Deniliquin Local Environmental Plan 2013 to rezone land at 69 Hardinge St and Lot 12 DP 1105942 Decimus St, Deniliquin.

I, the General Manager, Western Region at Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the Environmental Planning and Assessment Act, 1979 that an amendment to the Deniliquin Local Environmental Plan (LEP) to rezone land at 69 Hardinge St and Lot 12 DP 1105250 Decimus St, Deniliquin should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be amended and approved by the Department of Planning and Environment to include amendments to the Minimum Lot Size Map LSZ_005 as follows:

Item 1 - 69 Hardinge Street, Deniliquin: 400m² to nil.

Item 2 - Lot 12 DP 1105250 Decimus Street, Deniliquin: nil to 400m².

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (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 Infrastructure 2013).

(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.

3. Consultation is required with the Civil Aviation Safety Authority under Section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant section 117 Directions and addressed in the Section 59 reporting.

The Civil Aviation Safety Authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the planning proposal prior to community consultation.

4. 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).

5. Prior to submission of the planning proposal under Section 59 of the EP&A Act, the LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for LEP maps'.

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Dated 14th day of April 2015.


Ashley Albury
General Manager, Western Region
Planning & Environment

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Deniliquin Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012 in relation to the following planning proposal:

Number	Name
PP_2015_DENIL_001_00	Rezone land at 69 Hardinge Street and Lot 12 DP 1105250 Decimus Street, Deniliquin.

In exercising the Minister's functions under section 59, the Council must comply with Planning and Infrastructure's *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

Dated *14th April* 2015

a. w. alb
Ashley Albury
General Manager, Western Region
Department of Planning and Environment

Delegate of the Minister for Planning

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2015_DENIL_001_00
Date Sent to DoP&E under s56	27 March 2015
Date considered at LEP Review Panel (if applicable)	Considered by the Ministers Delegate and not considered by the Panel.
Gateway determination date	14 April 2015

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information:



Mr Des Bilske
General Manager
Deniliquin Council
PO BOX 270
DENILIKUIN NSW 2710

15/07047

Attention: Julie Rogers – Manager Environmental Services

Dear Mr Bilske

I refer to your letter dated 21 April 2015 relating to Planning Proposal
PP_2015_DENIL_001_00 to rezone land at 69 Hardinge St and Decimus St, Deniliquin.

I can confirm that the amended planning proposal has met condition 1 of the Gateway determination issued 14 April 2015. As this condition has been satisfied, Council may now proceed to public exhibition.

The Department also acknowledges the corrected lot description for land subject to the rezoning at Decimus Street.

Should you have any further enquiries, please contact Wayne Garnsey, Team Leader of the Western Region, at the Department on (02) 6841 2180.

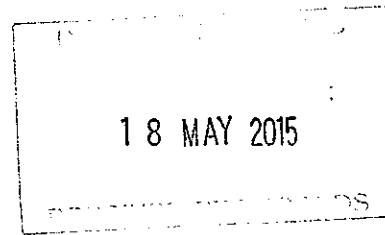
Yours sincerely

a.w. albury 28-4-2015

Ashley Albury
General Manager, Western Region

18 May 2015

General Manager
PO Box 270
Deniliquin 2710



Dear Sir,

Thank you for the opportunity to view and respond to the proposal to change the zoning from R1 General Residential to B2 Local Centre at 69 Harding Street.

I am writing to you as the owner and occupier of [redacted] We have a shared section of fence to the property at 69 Hardinge Street.

I have read and believe I understand the intentions for use at 69 Hardinge Street and do not see any particular detrimental effects on our property. However I would like to ask that consideration be given to a few points as the process of development proceeds.

Firstly, I would like the developer to know that this is our home and we have young children and that sufficient attention be given to any negative impacts on the health and safety of our family during development and use as a commercial property in the future.

Secondly, sufficient notice of major works would be appreciated. For example when the site was cleared last month we were unaware and it was excessively dusty. If we had have known in advance we could have planned to be away during the day, cover sensitive items, not be in the yard or have washing out while the work was being carried out. Also the excavation along the fence caused significant erosion that we had to rectify as the fence became quite unstable.

All we really ask is that the council and the developer communicate with residents. They should consider that they will be developing a site within close proximity of people's treasured homes and that any negative impacts are part of the decision making process. I cannot foresee any negative impacts as yet however I do not know exactly what business will be conducted on the site.

Yours Faithfully,

[Handwritten signature]

Deniliquin, 2710

Julie Rogers

From: Deniliquin Council
Sent: Monday, 25 May 2015 4:52 PM
To: Julie Rogers
Cc: edm
Subject: FW: Deniliquin - local environmental plan 2013 - Planning proposal No3 [SEC=UNCLASSIFIED]

From: Gould, Kevin [<mailto:Kevin.Gould@casa.gov.au>]
Sent: Monday, 25 May 2015 9:40 AM
To: Deniliquin Council
Subject: Deniliquin - local environmental plan 2013 - Planning proposal No3 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi There

I have had a look at the information provided for the above planning proposal.
CASA has no input.

Please feel free to contact me direct if you require any clarification

Thank you

regards

Kevin Gould

Aerodrome Inspector (VIC/TAS)
Civil Aviation Safety Authority

A - Level 32, 35 Collins Street, Melbourne | M - PO Box 2005, Canberra ACT 2601
P - 131 757 (ext. 5355) | F - 03 9927 5336 | E - kevin.gould@casa.gov.au

Safe Skies For All

Please consider the environment before printing this email.

Deniliquin Council

Please consider the environment before printing this email.



22 May 2015

CR2015/001871
SF2011/002840
MM

The General Manager
Deniliquin Council
PO Box 270
DENILIQUIN NSW 2710

Attention: Julie Rogers

DENILIQUIN LOCAL ENVIRONMENTAL PLAN 2013 - PLANNING PROPOSAL NO. 3

I refer to your correspondence regarding the proposed changes to the Deniliquin Local Environmental Plan 2013 which was referred to Roads and Maritime Services for comment in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

Roads and Maritime has reviewed the planning proposal for the rezoning of the 2 sites within Deniliquin and provides the following comments:

Decimus Street.

Roads and Maritime Services advises that it has no objection as the rezoning of this site will not impact on the Classified Road network.

69 Hardinge Street (Cobb Highway)

The planning proposal is for the rezoning of the subject site from R1 General Residential to B2 Local Centre. Currently the land along Hardinge Street that is zoned B2 is mostly located on the southern side of the street with the land on the northern side zoned for residential purposes. Notwithstanding this, it is noted that commercial activities are currently located on the northern side of Hardinge Street as the R1 zoning does allow for some limited commercial activities.

The proposed rezoning of the subject site will allow for additional commercial activities on the northern side of Hardinge Street. Rezoning of land for higher use along the highway generally represents ribbon development and generates increased pedestrian and vehicular interaction to and from and across Hardinge Street (the Cobb Highway). Roads and Maritime questions the justification for the rezoning of the subject site as it appears that land currently zoned B2 is available on the southern side of the highway. The planning proposal does not appear to be supported by any justification for the rezoning of the subject site.

Roads & Maritime Services

This planning proposal is for a site of limited size that has frontage, and therefore access, to a local road (Poitiers Street) in addition to its frontage to the Cobb Highway. It is on this basis that Roads and Maritime Services does not object to the planning proposal for the subject site. Any future proposals for the rezoning of land on the northern side of Hardinge Street should adopt a strategic approach with consideration for the surrounding precinct and impacts on Hardinge Street (the Cobb Highway) for both pedestrian and vehicular traffic and access and, acknowledge and fund measures to address the impacts of the increased development and traffic.

In the interests of safety and efficiency, Roads and Maritime is keen to ensure that the instances of direct property access to the classified road network are kept to a minimum, in this case the Cobb Highway (HW21). A Development Application (DA 31/15) for the development of the subject site has been referred to Roads and Maritime for comment.

From the information provided it appears that the changes proposed to the current Deniliquin Local Environmental Plan will not represent significant changes to the potential impacts permitted by the current LEP in relation to traffic movement within the current classified road network therefore Roads and Maritime Services would not object to the intent of the planning proposal as exhibited.

Roads and Maritime Services would be pleased to discuss the contents of this letter with the relevant council officers. Please refer any enquiries regarding this matter to Manager, Land Use for the South West Region, Maurice Morgan on Phone: (02) 6937 1611.

Yours faithfully



Per:
Mr Lindsay Tanner
Regional Manager
South West Region