



# Planning Proposal No 5

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**This planning proposal has been prepared to insert a clause into the Deniliquin Local Environmental Plan 2013 to permit boundary adjustments between lots that are below the minimum lot size in certain rural, residential and environment protection zones.**

**Amended 9 December 2015**

## **PART 1 OBJECTIVES OR INTENDED OUTCOMES**

The objective of this planning proposal is to provide flexibility in the consideration of development applications for boundary adjustments in the RU1 Primary Production, R5 Large Lot Residential and E3 Environmental Management zones in the Deniliquin Local Environmental Plan 2013 (LEP 2013). The planning proposal addresses particular circumstances where the areas of the lots do not satisfy the minimum lot size requirements of the LEP 2013.

## **PART 2 EXPLANATION OF PROVISIONS**

It is intended to insert a clause into LEP 2013 that will allow boundary adjustments to occur in the RU1 Primary Production, R5 Large Lot Residential and E3 Environmental Management zones where the subdivision will not result in any increase in the number of lots or an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots. Council must give consideration to the following matters prior to determining any such application:

- Existing uses and approved uses of other land in the vicinity of the subdivision;
- Impacts on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development;
- Compatibility with a use referred to in the two dot points above or a use on land in an adjoining zone;
- Measures to reduce incompatibility;
- Appropriate subdivision in context of the physical and natural constraints of the land;
- Adverse impacts on environmental values or agricultural viability of land.

The clause will not apply to strata or community title subdivision or any lot that could be created under clause 4.1 (minimum subdivision lot size) under LEP 2013.

Existing dwelling entitlements in these zones will not be affected by a subdivision under the proposed clause given the existence of clause 4.2B(e)(i) in LEP 2013.

## **PART 3 JUSTIFICATION**

*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. This matter has become an issue as a result of a recent inquiry seeking to carry out a boundary adjustment that is not considered to be 'minor' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and which does not satisfy the provisions of *clause 4.6 Exceptions to development standards* in the LEP 2013 but is considered to have planning merit.

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

The planning proposal is considered to be the most appropriate means of achieving the objectives and intended outcomes.

*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?*

The planning proposal is considered to be consistent with all applicable State Environmental Planning Policies as detailed in Appendix 1.

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

The planning proposal is consistent with all Section 117 Directions as detailed 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. Any impact on threatened species would be identified when a development application was submitted for a boundary adjustment.

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

It is considered that no adverse environmental impacts are likely to arise as a result of the planning proposal.

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

The planning proposal will have positive social and economic effects by providing greater flexibility in the subdivision of rural land and creating opportunities for more efficient use of land.

*Is there adequate public infrastructure for the planning proposal?*

Not applicable.

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

At this stage a gateway determination has not been issued. Council will consult with relevant State and Commonwealth authorities if required to do so when the gateway determination has been issued.

#### **PART 4 MAPPING**

There is no mapping for this clause.

#### **PART 5 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. As the proposed amendment is a general amendment to the LEP, individual property owners will not be notified.

#### **PART 6 PROJECT TIMELINE**

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



# Appendix 1

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**Consideration of State Environmental Planning Policies**

| SEPPs                                                                     | Consistent | Comments                                                                         |
|---------------------------------------------------------------------------|------------|----------------------------------------------------------------------------------|
| SEPP 21 Caravan Parks                                                     | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 30 Intensive Agriculture                                             | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 32 Urban Consolidation (Redevelopment of Urban Land)                 | Yes        | The planning proposal does not include any provision relevant to this SEPP.      |
| SEPP 33 Hazardous and Offensive Development                               | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 36 Manufactured Home Estates                                         | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 50 Canal Estate Development                                          | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 52 Farm Dams and Other Works in Land and Water Management Plan Areas | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 55 Remediation of Land                                               | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 62 Sustainable Aquaculture                                           | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 64 Advertising and Signage                                           | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP 65 Design Quality of Residential Flat Development                    | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Affordable Rental Housing) 2009                                     | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Building Sustainability Index: BASIX) 2004                          | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Exempt and Complying Development Codes) 2008                        | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Housing for Seniors or People with a Disability) 2004               | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Infrastructure) 2007                                                | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Major Development) 2005                                             | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Mining, Petroleum Production and Extractive Industries) 2007        | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Miscellaneous Consent Provisions) 2007                              | Yes        | The planning proposal does not include any provisions relevant to this SEPP.     |
| SEPP (Rural Lands) 2008                                                   | Yes        | The planning proposal will not undermine the value of rural land as it will only |

|                                            |     |                                                                                                                                                                                               |
|--------------------------------------------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                            |     | permit boundary adjustments that are below the minimum lot size subject to certain considerations. No additional dwelling entitlements can be created as a result of the boundary adjustment. |
| SEPP (State and Regional Development) 2011 | Yes | The planning proposal does not include any provisions relevant to this SEPP.                                                                                                                  |



# Appendix 2

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**Consideration of Section 117 Directions**

| Section 117 Direction                                      | Consistent | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1 Business and Industrial Zones                          | n/a        | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 1.2 Rural Zones                                            | Yes        | The planning proposal will not rezone rural land and does not contain any provisions that will increase the permissible density of land within a rural zone.                                                                                                                                                                                                                                                                                                            |
| 1.3 Mining, Petroleum Production and Extractive Industries | Yes        | The planning proposal will not prohibit the mining of coal or other minerals, production of petroleum or winning or obtaining of extractive materials or restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.                                                                       |
| 1.5 Rural Lands                                            | Yes        | The planning proposal does affect land within an existing or proposed rural or environment protection zone but will not change the existing minimum lot size on land within these zones. The planning proposal will not undermine the value of rural land as it will only permit boundary adjustments that are below the minimum lot size subject to certain considerations. No additional dwelling entitlements can be created as a result of the boundary adjustment. |
| 2.1 Environment Protection Zones                           | Yes        | The planning proposal does apply to land zoned environmental management but it will not undermine the protection and conservation of environmentally sensitive areas by reducing the environmental protection standards that apply to this land.                                                                                                                                                                                                                        |
| 2.3 Heritage Conservation                                  | n/a        | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2.4 Recreation Vehicle Areas                               | n/a        | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.1 Residential Zones                                      | Yes        | The planning proposal applies to land zoned R5 Large Lot Residential but is consistent with this direction as it will only permit boundary adjustment that are below the minimum lot size. It will not alter zone boundaries or permit significant residential development in any other zone.                                                                                                                                                                           |
| n/a                                                        |            | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| n/a                                                        |            | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.4 Integrating Land Use and Transport                     | n/a        | -                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.5 Development Near Licensed Aerodromes                   | Yes        | The planning proposal applies to land that is within the vicinity of a licensed aerodrome. However, the planning proposal will not impact on the operation of the licensed aerodrome as it applies to boundary adjustments only.                                                                                                                                                                                                                                        |

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|----------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3.6 Shooting Ranges                    | Yes | The planning proposal will apply to land that is adjacent to and/or adjoining an existing shooting range. However the planning proposal will not permit more intensive land uses or uses which are incompatible with the noise emitted by the shooting range. |
| 4.3 Flood Prone Land                   | Yes | The planning proposal will apply to land that is flood prone. However, the planning proposal only applies to boundary adjustments and flooding can be considered as part of the assessment of any development application submitted under this provision.     |
| 4.4 Planning for Bushfire Protection   | Yes | The planning proposal will apply to land that is bushfire prone. However, the planning proposal only applies to boundary adjustments and bushfire can be considered as part of the assessment of any development application submitted under this provision.  |
| 6.1 Approval and Referral Requirements | n/a | -                                                                                                                                                                                                                                                             |
| 6.2 Reserving Land for Public Purposes | n/a | -                                                                                                                                                                                                                                                             |
| 6.3 Site Specific Provisions           | n/a | -                                                                                                                                                                                                                                                             |