



Planning Proposal No 5

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.

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

The proposed outcome will be achieved by amending LEP 2013 by inserting the following clause into Part 4:

Boundary changes between lots in certain rural, residential and environment protection zones

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.*
- (2) This clause applies to land in any of the following zones:*
 - (a) Zone RU1 Primary Production,*
 - (b) Zone R5 Large Lot Residential,*
 - (c) Zone E3 Environmental Management.*
- (3) Despite clause 4.1(3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following:*
 - (a) an increase in the number of lots,*
 - (b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.*
- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:*
 - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,*
 - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,*
 - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),*
 - (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,*
 - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),*
 - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,*

- (g) *whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.*
- (5) *This clause does not apply:*
 - (a) *in relation to the subdivision of individual lots in a strata plan or a community title scheme, or*
 - (b) *if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.*

In addition to inserting this clause, it is proposed to insert an additional subclause in clause 4.2B *Erection of dwelling houses on land in certain rural and environment protection zones* to ensure that lots still retain a dwelling entitlement after the boundary adjustment:

- (f) *is a lot created by a boundary adjustment in accordance with clause <number to be determined> and upon which a dwelling house would have been permissible prior to the adjustment of the boundary.*

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

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

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.

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	-