

Planning Services

Gateway Determination Report

LGA	Edward River Council
PPA	Edward River Council
NAME	Additional Permitted Use – 227 Augustus Street, Deniliquin (6 jobs)
NUMBER	PP_2018_ERIVE_002_00
LEP TO BE AMENDED	Deniliquin Local Environmental Plan 2013 (DLEP 2013)
ADDRESS	227 Augustus Street, Deniliquin
DESCRIPTION	Lot 114 DP 756310
RECEIVED	30 April 2018
FILE NO.	IRF18/2280
POLITICAL DONATIONS	There are no donations known or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

Council has requested to amend the Deniliquin Local Environmental Plan 2013 (DLEP 2013) to allow 'General Industry' permissible as with development consent as an additional permitted use on Lot 114 DP756310, 227 Augustus Street, Deniliquin.

The additional permitted use has been proposed to accommodate the construction of precast concrete products.

Site description

The proposal is located on Lot 114 DP 756310, 227 Augustus Street, Deniliquin. The site has an area of 2.3ha and located on the corner of Augustus Street and Wanderer Street (also known as Conargo Road). Figure 1 shows the location of the subject site. The site is also bounded by the North Deniliquin flood levee on the eastern and southern boundaries. The site is developed with buildings and construction materials on site which is consistent with the approved use of the site being a depot. There is minimal vegetation. Access to and from the site is via Augustus Street. Figure 2 provides an aerial photograph of the site. The subject site is zoned RU1 Primary Production under the DLEP 2013, however it has a history of being used for industrial type uses. The following approvals have been issued for the use of the site:

Application Reference	Approval Description	Details
BA6021	Workshop alterations	Approval granted 20 August 1997 to extend an existing workshop on the site
DA/CC948	Workshop addition	Development consent granted 20 July 2005 to extend an existing workshop on the site. It appears that BA6021 lapsed and this consent essentially allowed for the workshop alterations that were initially proposed.
DA37/14	Change of use to rural industry and installation of a shed and weighbridge	Rural industry associated with fertiliser.
DA66/17	Change of use to depot	Change of use from rural industry to depot.

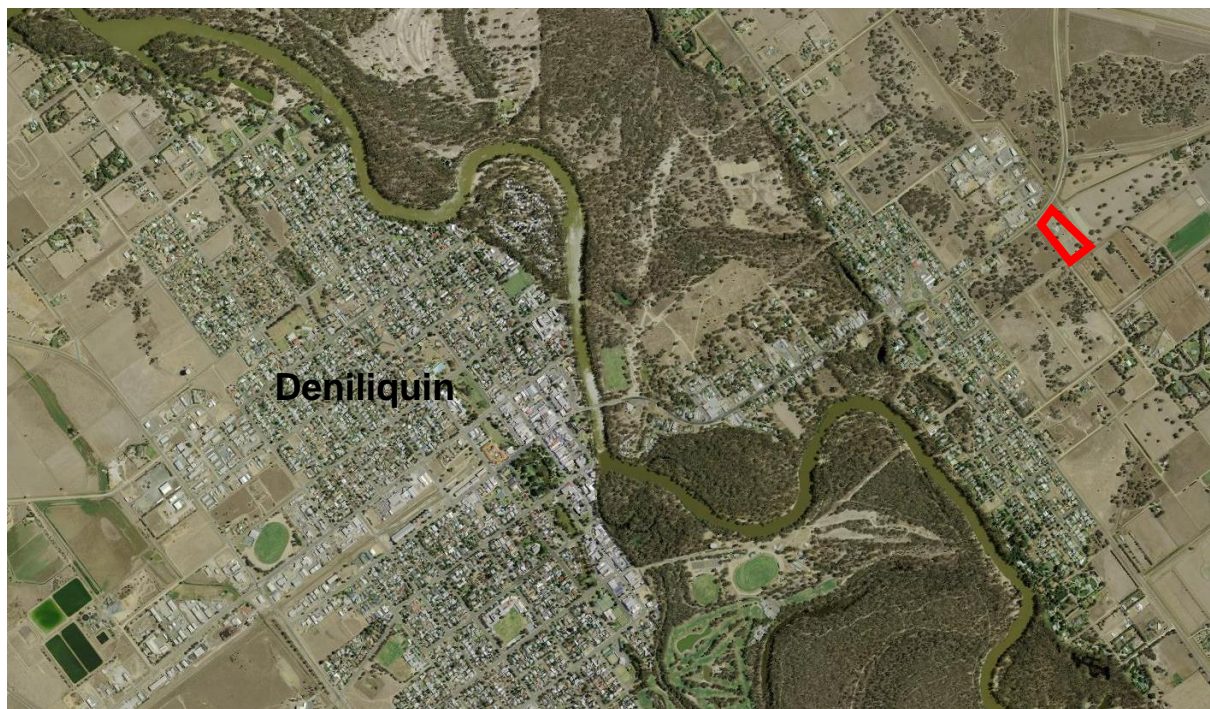


Figure 1 – Locality Map



Figure 2 – Site aerial photograph

Existing planning controls

The zone is currently zone RU1 Primary production. The land use table extract from the LEP 2013 is provided below.

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To allow the development of non-agricultural land uses that are compatible with the character of the zone.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home occupations; Intensive plant agriculture; Water reticulation systems

3 Permitted with consent

Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Depots; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Freight transport facilities; Heavy industrial storage establishments; Heavy industries; Helipads; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Jetties; Landscaping material supplies; Mooring pens; Moorings; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural workers' dwellings; Secondary dwellings; Turf farming; Veterinary hospitals; Water recreation structures; Water supply systems; Wharf or boating facilities

4 Prohibited

Any development not specified in item 2 or 3

Surrounding area

The site adjoins a R5 Large Lot Residential Zone to the east and south of the site. As shown in Figure 3 the adjoining sites remain largely undeveloped with only a small number of residential dwellings. The nearest dwelling is located approximately 266m from the site.

To the west of the site is an existing developed IN1 General Industry Zone and to the north of the site is RU1 Primary Production land as identified in the zoning map below (figure 4).



Figure 3 – Aerial photograph of adjoining sites.

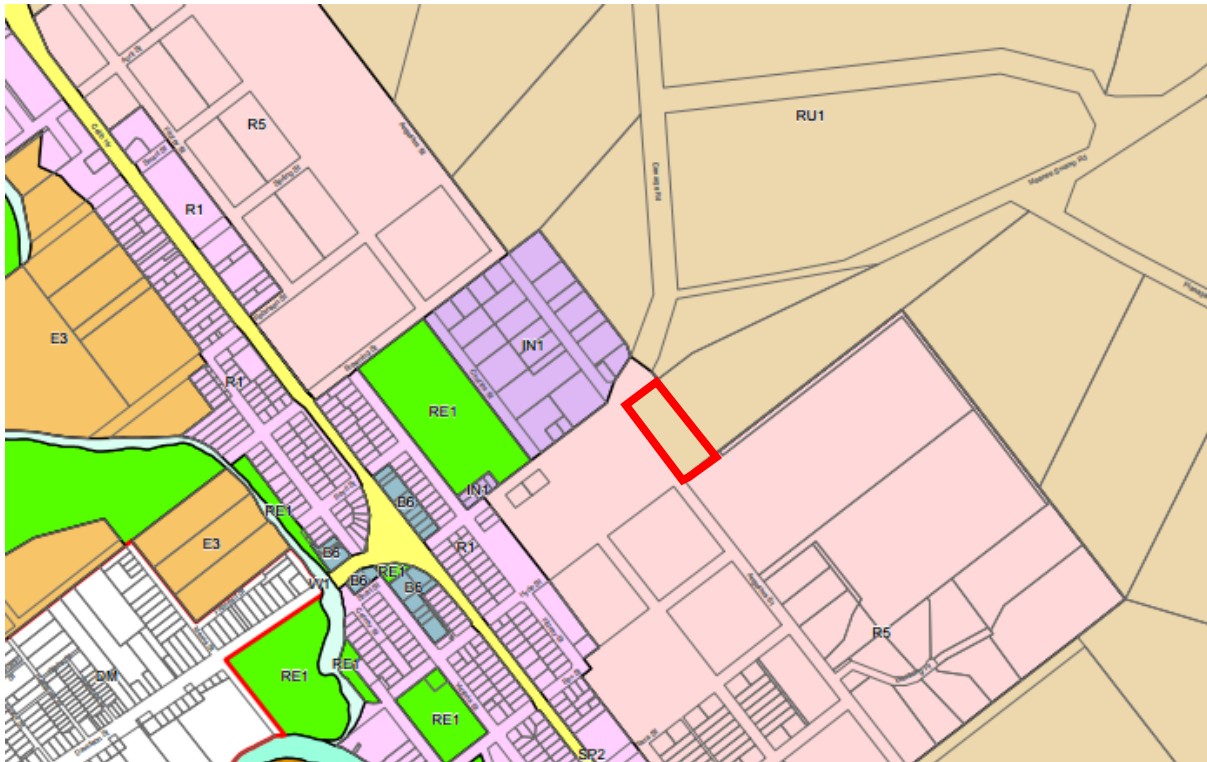


Figure 4 – Zoning map

Summary of recommendation

Proceed with Condition – A condition is recommended to ensure that the additional use reflects the proposed development (construction of precast concrete products). Whilst it is considered appropriate to permit the development on the site, it is not considered appropriate to permit 'General Industry'. The nature of 'General Industry' would allow for a variety of different and unknown industrial land uses on the site.

Prior to proceeding to consultation, it is recommended that the planning proposal is amended to specifically reflect the proposed development on the site.

PROPOSAL

Objectives or intended outcomes

The planning proposal states:

The objective of the planning proposal is make 'general industry' permissible with development consent under the DLEP 2013 as an additional permitted use on the subject site to enable development of the site for the manufacture of pre cast concrete products.

Comment: The objective of planning proposal is considered to be adequate. However, as identified above a condition is recommended to ensure that the additional permitted use relates specifically to the proposed development.

Explanation of provisions

The planning proposal states:

The intended outcome will be achieved by inserting in Schedule 1 of DLEP 2013 the land use term 'general industry' as an additional permitted use for Lot 114 DP756310, 227 Augustus Street, Deniliquin.

Comment: The explanation of provisions in the planning proposal is considered to be adequate. However, as identified above a condition is recommended to ensure that the additional permitted use relates specifically to the proposed development.

Mapping

No mapping has been proposed by Council. An additional permitted uses map will be required

NEED FOR THE PLANNING PROPOSAL

The need for the planning proposal is to allow the expansion of an existing business (depot), which historically, has been used for a variety of light industrial and rural industrial uses. Rather than rezone the allotment Council has proposed an additional use to mitigate any potential impacts on the surrounding R5 Large Lot Residential Area.

Whilst it is agreed that the planning proposal is the best means of achieving the intended outcomes. It is considered appropriate to include a condition in the Gateway Determination, which requires the planning proposal to be amended to specifically state the proposed use of the development. This will ensure that the proposed development is permissible and will not allow other unknown land uses on the site under the 'General Industry' definition.

STRATEGIC ASSESSMENT

Riverine Murray Regional Plan 2036

The planning proposal states:

The planning proposal is not consistent with the Riverina Murray Regional Plan 2036 as the planning proposal will enable the establishment of a general industry on land that is zoned RU1 Primary Production rather than consolidating the use of the existing industrial land stock.

This inconsistency is of minor significance given the historical industrial use of the land and it will not significantly increase impacts on infrastructure (which would be considered at the development application stage). The site will not reduce connectivity to the existing freight network given its location with frontage to a regional road (Wanderer Street/Conargo Road).

Comment: It is considered that the minor inconsistency is justified. The proposal will not detract from any additional agricultural land and is an expansion of an existing use.

Local

Edward River Council does not have a local strategy or other local strategic plan that applies to its local government area.

Section 9.1 Ministerial Directions

1.5 RURAL LANDS: This Direction does apply to the planning proposal as it will affect land within an existing or proposed rural zone.

The proposal is considered to be inconsistent with this Direction.

The planning proposal states:

This direction applies to this planning proposal as it will affect land within an existing rural zone and therefore must consider the rural planning principles in State Environmental Planning Policy (Rural Lands) 2008.

In response to the rural planning principles, the land will retain its RU1 zoning and as such rural land uses will be permissible on the land. It is acknowledged that the land has historically been used for industrial type uses and it is unlikely given its location that it would be used for agricultural pursuits (other than, for example, rural industries) given the infrastructure that exists on site. Any inconsistency with this direction is of minor significance given the retention of the RU1 zone and the historical industrial use of the land.

RECOMMENDATION: The Director Regions, Western can be satisfied that the inconsistency is of minor significance due to historical Council approved industrial use of the site.

5.10 IMPLEMENTATION OF REGIONAL PLANS: As outlined above the Riverina Murray Regional Plan 2036 applies. Council have identified a minor inconsistency with the plan.

RECOMMENDATION: The Director Regions, Western can be satisfied that the inconsistency is of minor significance due to historical Council approved industrial use of the site.

6.3 SITE SPECIFIC PROVISIONS: This Direction does apply to the planning proposal as it allows a particular development to be carried out.

The proposal is considered to be inconsistent with this Direction as it does not allow that land use to be carried out in the zone the land is situated on rezones the site to an existing zone already applying in the environmental planning instrument that allows the land use and it imposes development standards or requirements in addition to those already contained in that zone

The planning proposal states:

This direction does apply to this planning proposal as it will allow a particular development to be carried out. The inconsistency with this direction is of minor significance as the site has historically been used for industrial uses. It would not be appropriate to include 'general industries' as a permissible use in the RU1 zone due to the wider implications for this zone which would undermine the existing IN1 zoned land. It would not be appropriate to rezone the site IN1 as the existing IN1 zoned land is on the north/north west side of Conargo Road and Council is not considering an extension of this zone onto the south/south eastern side of Conargo Road.

RECOMMENDATION: The Director Regions, Western can be satisfied that the inconsistency is of minor significance due to historical Council approved industrial use of the site.

State environmental planning policies

The planning proposal addressed the rural planning principles in the State Environmental Planning Policy (Rural Lands) 2008, as outlined above. As stated above the secretary can be satisfied that the inconsistency is of a minor significance due to the historical industrial use of the site.

SITE-SPECIFIC ASSESSMENT

Social, Environmental and Economic affects

The additional permitted use is considered to have no significant adverse environmental impacts. The site is already developed and currently being used as a depot. Council has advised that the expansion of the precast business will create six additional permanent jobs for the business. The development of this site will allow the business to produce the products in a quality controlled environment (undercover) and not cause adverse impact in the locality.

CONSULTATION

Community

The planning proposal has proposed the following community consultation.

In accordance with schedule 1 clause 4 of the Environmental Planning and Assessment Act, it is proposed to exhibit the planning proposal for 28 days in the local media and on Council's website.

A 28 day community consultation period is supported.

In addition to the above it is considered appropriate for the planning proposal to be sent to adjoining property owners.

Agencies

Council has not specifically stated any agency consultation and no agencies are required to be consulted in this case.

TIME FRAME

Council have proposed 9 month timeframe to complete the amendment. It is recommended that a 12 month timeframe be required to complete the LEP.

LOCAL PLAN-MAKING AUTHORITY

Council has requested Council Officer Delegation to prepare the draft LEP under section 3.36 of the Act. Appendix 4 – Evaluation Criteria for the Delegation of Plan making Functions was submitted.

Due to the planning proposal being a local matter that is site specific it is considered appropriate that delegations are authorised to Council.

CONCLUSION

- Preparation of the planning proposal is supported to proceed with conditions.
- The planning proposal addresses the Department's 'A guide to preparing planning proposals'.

RECOMMENDATION

[1] It is recommended that the Director Regions, Western as delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.5 Rural Lands, 5.10 Implementation of Regional Plans and 6.3 Site Specific Provisions are minor and justified and no further work is required; and

[2] It is recommended that the Director Regions, Western as delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. Prior to undertaking community consultation, the planning proposal is to be amended to specifically state the intended use of the development. The planning proposal is to be forward to the Department of Planning and Environment for approval, prior to community consultation.
2. Community consultation is required under sections 2.22 and 3.34(2)(c) of the *Environmental Planning and Assessment Act, 1979* as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (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 (Department of Planning & Environment August 2016)*.
 - (c) A copy of the planning proposal shall be sent to adjoining property owners.
3. Prior to submission of the planning proposal under section 3.36 of the *Environmental Planning and Assessment Act, 1979*, the final LEP map (Additional Permitted Uses map) must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the *Environmental Planning and Assessment Act, 1979*. 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. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be the local plan-making authority.



28.5.18

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29.5.18

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