

Riverina Highway, Deniliquin  
**PLANNING PROPOSAL**  
Deniliquin Council



DECEMBER 2011



**This report has been prepared for**

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## APPENDICES

- A. Subject Land
- B. Survey Plan with levels

## 1. INTRODUCTION

Habitat Planning has been engaged by Deniliquin Council on behalf of the owner of Lot 1 in DP1121183 and Lots 2 and 3 in DP 562598 on the Riverina Highway at Deniliquin (“the subject land”) to prepare a Planning Proposal for an amending Local Environmental Plan. The amendment sought is by way of rezoning the subject land to allow rural residential development.

The application for rezoning is supported by Deniliquin Council.

The Planning Proposal has been prepared in accordance with the Department of Planning’s *A Guide to Preparing Planning Proposals* and other information specified in Council’s consultant brief.

### 1.1 BACKGROUND

Decentralised Demountables Pty Ltd is the owner of all three lots that form the subject land collectively known as ‘Kyalite Stables’. Lots 2 and 3 are long and narrow (Lot 2 appearing to be a closed road) with Lot 1 the largest of the three in a more rectangular configuration. Lots 1 and 2 both have frontage to the Riverina Highway, whilst Lot 3 relies on an informal arrangement to gain access to the highway via Lots 1 and 2. Lots 2 and 3 of DP 562598 and Lot 1 of DP 1121183 are zoned 1(a) General Rural under the *Deniliquin Local Environmental Plan 1997* however part of Lot 3 DP562598 is also zoned 1(c) Rural Small Holdings, which is understood to be due to a mapping error. The areas of the lots are:

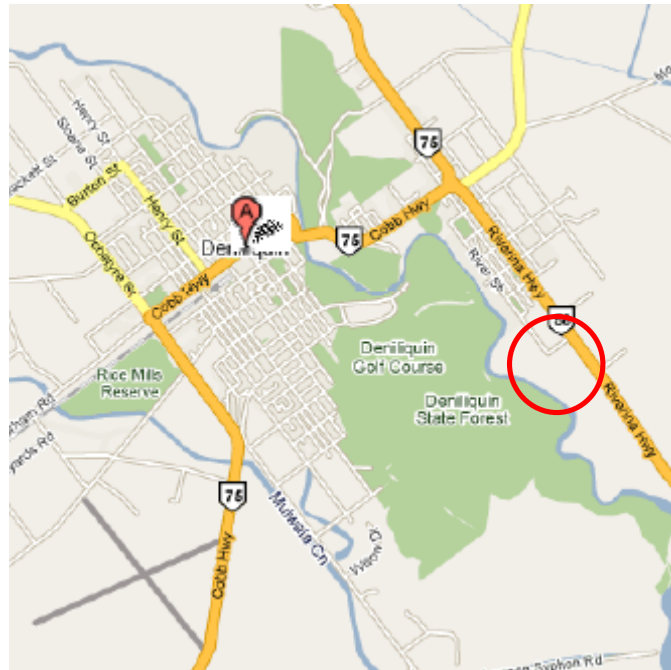
- Lot 1: 10.35ha
- Lot 2: 1.692ha
- Lot 3: 1.544ha.

The owners of the subject land made a request to Council in July 2009 to rezone the three lots from 1(a) General Rural to R5 Large Lot Residential. In support of the request, the owners have provided an indicative plan showing a 13 lot Community Title subdivision, with four lots proposing frontage to the Edward River. The purpose of the request is to provide additional large residential lots in Deniliquin with access to the river.

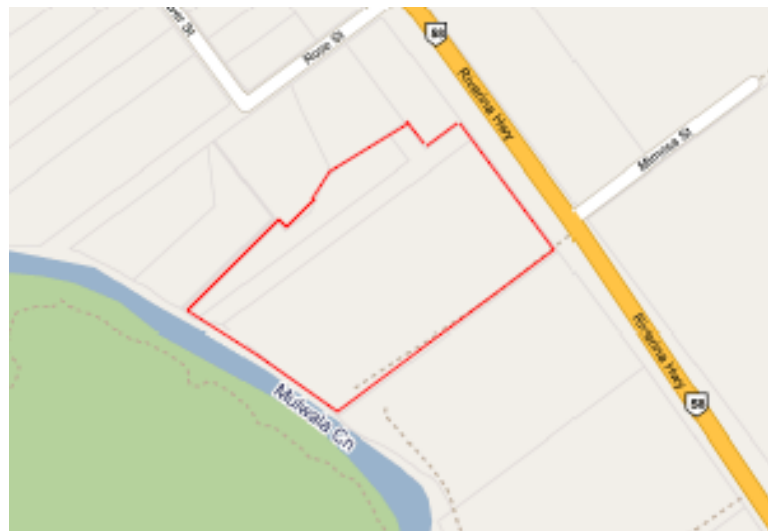
The subject land is currently used for grazing purposes but in the past has been used for cropping (as recently as 2008) and as a horse stud. Each lot contains a dwelling although that on Lot 2 closer to the river is understood to be uninhabitable. The site is not serviced by water or sewer.

The request for rezoning was submitted to Council in July 2009 for the purpose of subdividing the three lots into a 13 lot community title subdivision. An application for the subdivision has not been formally submitted and will not be submitted until confirmation of the new zoning.

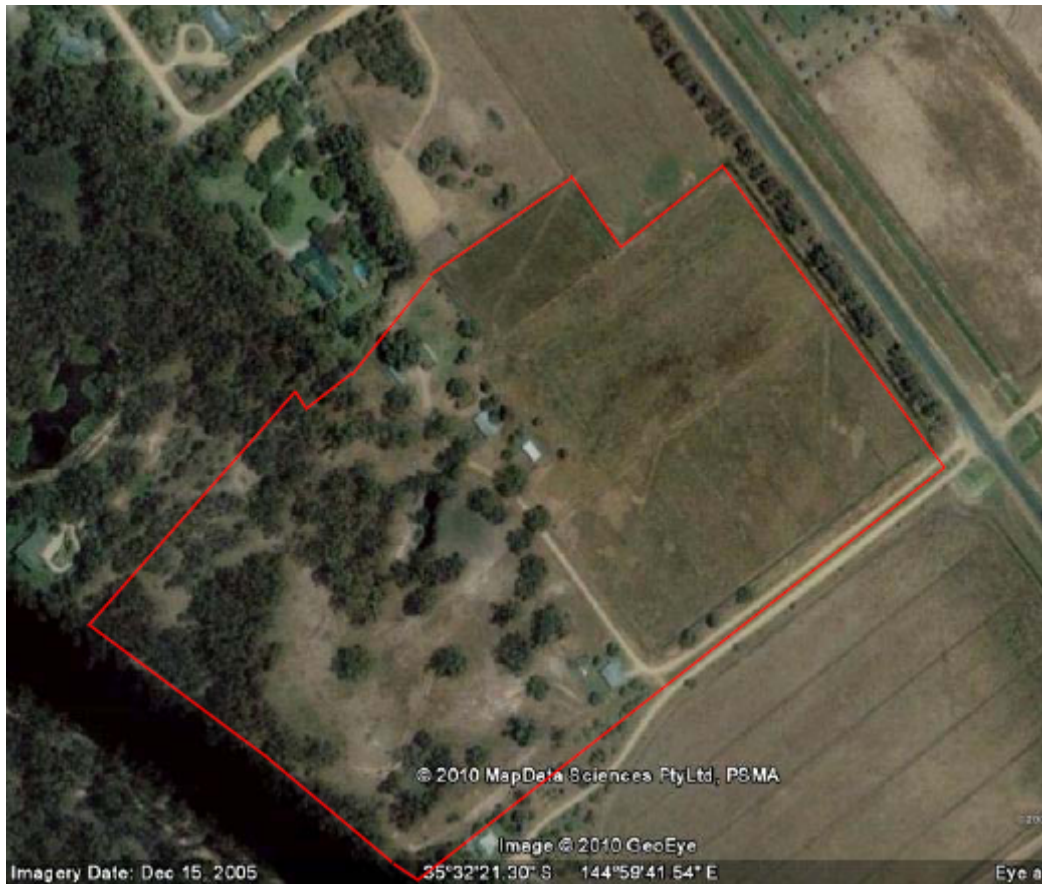
Plans illustrating the current and proposed lot alignments, zoning, bushfire threat and flood liable land are contained in Attachment A.



**Figure 1** – Location of subject land within the context of Denilquin (Source: Google Maps 2010)



**Figure 2** – Subject land within the context of its neighbourhood (Source: Google Maps 2010). Note the map incorrectly identifies the Edward River as the Mulwala Canal.



**Figure 3** – Aerial view of subject land (Source: Google Earth 2010)



**Figure 4**  
Existing dwelling on  
Lot 3.



**Figure 5**  
Existing dwelling on  
Lot 1.



**Figure 6**  
Landscape typical of  
southern half of the  
subject land.



**Figure 7**  
Access to subject  
land from Riverina  
Highway.



**Figure 8**

Northern half of subject land showing absence of remnant vegetation and agricultural use.



**Figure 9**

Shed on Lot 1.

### **Surrounding Area**

The site is surrounded by land within Zones 1(a)(General Rural) and 1(c)(Rural Small Holdings). A portion of land in close proximity to the subject site is within Zone 6 (Open Space) and is a public reserve. To the south-west of the Riverina Highway the site is surrounded by large rural residential lots. To the north-east of the highway the site is surrounded by agricultural activities.

## **2. INTENDED OUTCOMES**

The intended outcome of this planning proposal is the development of a 13 lot Community Title subdivision on the fringe of Deniliquin that will provide a rural residential living environment within a riverine environment.

## **3. EXPLANATION OF THE PROVISIONS**

The Planning Proposal involves the following provisions:

- Introduction of the R5 Large Lot Residential Zone into the LEP.
- Introduction of a minimum lot size map into the LEP showing a minimum lot size of 5,000m<sup>2</sup>.

- Amendment of the LEP land zoning map in accordance with the proposed zoning map shown at Attachment A.

## **DRAFT Local Environmental Plan 2011(LEP)**

Council is currently preparing a draft LEP in the standard instrument format. Council will be considering the section 64 report on the draft LEP at its meeting on 7 December 2011.

The DRAFT LEP will include the land within the R5 Large Lot Residential Zone should the planning proposal proceed. The lot size map is intended to show that the minimum lot size for the R5 zone to be 1ha. The map will include blue hatching over the R5 zone which requires the reference to clause 4.1 of the LEP, with particular intention to clause 4A. The clause states:

### **4.1 Minimum subdivision lot size**

- (1) The objective of this clause are as follows:
  - (a) to ensure that new subdivision reflect characteristic lot sizes and patterns in the surrounding locality,
  - (b) to ensure that lot sizes for dwelling houses are consistent with lot sizes on adjoining lands,
  - (c) to ensure that lot sizes have a practical and efficient layout to meet intended use,
  - (d) to prevent the fragmentation of rural lands, and
  - (e) to minimise intensification of development on flood affected land.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

Direction – An exception to the minim size shown on the Lots Size Map may be provided in certain circumstance, for example, in the case of land that is to be used for attached dwellings.

- (4) This clause doesn not apply in relation to sudivision of individual lots in a strata plan or community title scheme.
- (4A) despite subclause (3), the size of any lot resulting from the subdivision of land shown on the Lot Size Map to be within Area A, must not be less than the area shown on Column 2 of the table to this subclause opposite the relevant Area, if the lot will be connected to reticulated sewer.

| <b>Column 1</b> | <b>Column 2</b>     |
|-----------------|---------------------|
| Area A          | 5,000m <sup>2</sup> |

The proposal is consistent with the proposed new LEP under clause 4A.

## **4. JUSTIFICATION**

This section of the Planning Proposal sets out the justification for the intended outcomes and provisions, and the process for their implementation. The questions to which responses have been provided are taken from the Guide.

### **4.1 NEED FOR THE PLANNING PROPOSAL**

**Is the Planning Proposal a result of any strategic study or report?**

No, although Council has committed to a Rural Residential Strategy as part of the new LEP and is within the 2011/2012 budget. The Planning Proposal has been initiated by Council following a request from the landowner.

Council has specifically requested that an analysis of the rural residential market in Deniliquin be undertaken as part of this Planning Proposal report. In the absence of a land use strategy this analysis will to some extent at least assist in an understanding of the current situation in regards to rural residential land use in Deniliquin.

The supply of any particular type of land can be divided into 'potential' supply and 'actual' supply. Potential supply is the amount of vacant land zoned for a particular purpose (in this case rural residential) or in other words, land that is available for development. Actual supply is the amount of vacant land that is 'on the market'; that is, it is developed and available for sale. These two components of supply often work independently of each as is the case for rural residential land in Deniliquin.

In regards to potential supply, Council officers have advised Council<sup>1</sup> that:

...there is currently an oversupply of land zoned for rural residential purposes and that this oversupply of land is resulting in a sporadic pattern of subdivision occurring. The Committee was advised that there is approximately 961ha of land zoned for rural residential purposes and that 85% of this land has subdivision potential under the current provisions of the Deniliquin Local Environmental Plan 1997. It is estimated that this current supply of land will satisfy demand for rural residential land for at least the next 50 years.

However, simple calculations based on zone areas tend to overstate the potential supply situation because some land is:

- not available for development (i.e. not for sale or 'land banked' for the future);
- not intended for development by the owner (i.e. intend to continue with existing land uses such as commercial farming or the landowner is content with the dimensions of a larger rural residential lot despite it being capable of subdivision);
- physically constrained for development (e.g. flooding, remnant vegetation, bushfire risk, etc.);
- not financially viable for subdivision (i.e. costs exceed returns or profit is inadequate);
- constrained by infrastructure and servicing (e.g. sewer, water, roads, etc.); or
- unwanted in the market (e.g. poor location, over priced, too big/small, etc.).

For these reasons, it is possible the pending Rural Residential Strategy may conclude that some existing 1(c) zoned land be back zoned as part of an amending LEP.

In regards to actual supply, an assessment of the current market for rural residential allotments in Deniliquin based on interviews with local Real Estate agents reveals the following:

- The current supply of such lots is generally considered to be adequate although this is mostly due to the persistent dry conditions rather than any other market influence. If conditions were better then the current supply

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<sup>1</sup> Item 3A on the agenda to the 28<sup>th</sup> October 2009 Council meeting.

would be inadequate because demand would be greater. Certainly there is consensus amongst agents that this market is not currently over supplied.

- Regardless of conditions there is always strong demand for “river blocks” because of the high levels of residential amenity they offer. A large proportion of this demand is driven by Melbourne residents who seek such an environment which is cheaper than locations on the Murray River such as Echuca/Moama.
- One agent quoted current demand for rural residential lots at one enquiry per month and one sale every three months.

From 2000 to 2011, 60 rural small holding lots have been approved, providing an average of 5.5 new lots approved each year. 39 of these newly created lots occurred between 2002 and 2003.

In summary, it is likely that there is and will continue to be strong demand for rural residential lots in locations offering high levels of residential amenity, such as riverine environments. It must be remembered that one of the main reasons people desire a rural residential environment is because of ‘space’ and the enhanced amenity this offers. It is considered that the apparent oversupply (in terms of potential supply) of rural residential land in Deniliquin is not grounds alone for discarding this Planning Proposal because the subject land falls into that section of the market for which there is demand.

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

The desired outcome cannot be achieved under the subdivision provisions of the current 1(a) and 1(c) zones or any other provision within the current LEP. Likewise there are no other current environmental planning instruments that would allow Council to consider the proposal. Consequently the Planning Proposal is necessary to introduce provisions into the LEP that will allow consideration of the proposed subdivision of the subject land.

**Is there a net community benefit?**

A Net Community Benefit Test of the Planning Proposal reveals:

- There would be an economic benefit to Deniliquin from the additional population the proposed lots would bring. This economic benefit translates to a community benefit through a permanent increase in spending within the local economy and less directly, the creation of employment. Works associated with the subdivision and subsequent dwelling construction also benefit the local economy and therefore the community.
- There would be a social benefit to Deniliquin from the additional population the proposed lots would bring. This social benefit is a community benefit because it presents the opportunity to increase support for community facilities such as schools and sporting clubs.
- The community would benefit from the creation of additional choice in living environments within Deniliquin. Such choice adds complexity to a community and contributes to a more interesting culture, which is seen as a desirable outcome.

- All costs associated with the Planning Proposal and subsequent subdivision will be borne by the developer, and as such there is no cost to the community.
- There will be a small loss of agricultural land resulting from the Planning Proposal, which is not a benefit to a community because the local economy is heavily dependent on this sector.

On balance, there is a net community benefit to be had from the Planning Proposal.

## 4.2 RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

**Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?**

There is no adopted regional strategy applicable to the Planning Proposal.

However a draft *Murray Regional Strategy* has been prepared (“the draft Strategy”) by the Department of Planning (DoP) in October 2009. The draft Strategy sets out a number of objectives and actions relating to areas such as employment, housing, transport, environment and public places. The housing target for the draft Strategy aims to cater for an extra 8,000 people across the Murray Region over the period to 2036. In this respect, the Planning Proposal is consistent with the objectives of the draft Strategy.

The draft Strategy acknowledges that “*rural lifestyle housing can help support and provide alternative housing choice for rural communities but must be planned for and managed correctly*”<sup>2</sup>. The draft Strategy states carefully planned rural lifestyle housing can:

- provide greater housing choice for rural communities
- ensure infrastructure and servicing costs are kept to a minimum.
- reduce potential for land use conflict between farm based businesses and residents
- prevent distortions in the economic value of agricultural land
- allow for the management of natural resources and biodiversity on privately owned land
- minimise social isolation, for example, by preventing housing in more remote areas

The Planning Proposal is generally consistent with these circumstances because:

- it provides lifestyle choice in Deniliquin
- it is on the urban fringe of Deniliquin and therefore can easily tap into existing urban infrastructure
- only land adjoining to the east is in agriculture which minimises risk of land use conflicts
- it will have no impact on the value of agricultural land
- development of the land presents an opportunity for protection of the natural environment and particularly the floodplain

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<sup>2</sup> draft Murray Regional Strategy - DoP Oct 2009 - Page 16

- the land is not isolated and in fact will be an extension of the Deniliquin urban area

In regards to settlement and housing, the draft Strategy recognises:

Deniliquin is the largest town in the Central Murray subregion. Projections indicate its population will be relatively stable over the next decade, with a small decline towards 2036. Local planning will need to ensure land is available for an additional 450 dwellings, including opportunities for infill development<sup>3</sup>.

The Planning Proposal is providing the opportunity for new residential development and therefore is consistent with what the draft Strategy is seeking to achieve.

It is a requirement of the draft Strategy that zonings for rural lifestyle housing should only be undertaken in accordance with a settlement strategy approved by the Director-General. It is noted there is no such strategy in place in Deniliquin however the proposal is of a small scale and will result in a minimal increase of rural residential land in Deniliquin.

**Is the Planning Proposal consistent with the local Council's community strategic plan or other local strategic plan?**

Deniliquin does not have a strategic land use plan.

**Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

There are a number of State Environmental Planning Policies (SEPP's) relevant to the Planning Proposal.

***State Environmental Planning Policy No. 55 - Remediation of Land***

A preliminary assessment of land for potential soil contamination is required by this SEPP where Council has no knowledge of the historical use of the site, or there is knowledge that it is potentially contaminated. In this case the half of the subject land is part of the Edward River floodplain and has been used for nothing else other than grazing. The other half has been cleared of vegetation and has been used for irrigated pasture and cropping. It is also known that this part of the site has been used for a horse stud.

Based on the known history of the site, further assessment of the site in accordance with this SEPP may be required.

***State Environmental Planning Policy (Rural Lands) 2008***

Section 117 Direction 1.5 – Rural Lands requires that when a council prepares an LEP (Planning Proposal) for land within a rural or environment protection zone it needs to be consistent with the rural planning principles listed in clause 7 of the SEPP. These principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

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<sup>3</sup> ibid - page 19

- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

An assessment of the Planning Proposal against these principles reveals the following:

- The Planning Proposal does not promote or protect existing agricultural land because when developed the land will cease to be used for agriculture. It is noted however that (in the absence of irrigation) the land is rated as Category IV in the Department of Natural Resources Land Capability mapping. The definition given for Category IV lands is as follows:

Class IV - Soil conservation practices such as pasture improvement, stock control, application of fertiliser and minimal cultivation for the establishment or re-establishment of permanent pasture. Land not suitable for cultivation on a regular basis owing to limitations of slope gradient, soil erosion, shallowness or rockiness, climate, or a combination of these factors. Comprises the better classes of grazing land of the State and can be cultivated for an occasional crop, particularly a fodder crop or for pasture renewal. Not suited to the range of agricultural uses listed for Classes I to III. If used for "hobby farms" adequate provision should be made for water supply, effluent disposal, and selection of safe building sites and access roads.

This classification confirms that the subject land is not 'prime' agricultural land.

- The trend is for larger agricultural holdings and as such the area of the subject land less and less relevant to agriculture. In addition, the location of the subject land on the immediate fringe of the Deniliquin urban area deems it less suitable for commercial farming activities as it may result in land use conflicts.
- The economic and social benefits of retaining the land in agriculture are outweighed in this instance by the overall benefit to the Deniliquin community.
- There is potential for the subdivision of the subject land to result in less protection for the riverine environment through multiple land ownership and different attitudes. However, there is also potential for protection to be enhanced if the subject land is not responsibly managed in its existing configuration.
- The Planning Proposal is an ideal opportunity for rural lifestyle given its location adjacent to the Deniliquin township and the high residential amenity offered by the riverine environment.
- The opportunity exists for the subject land to take advantage of the proximity of urban infrastructure.

- The influence of the regional strategy on the Planning Proposal is addressed in the previous section.

On balance, the Planning Proposal is considered to satisfy the Rural Planning Principles as the benefits outweigh the loss of a small amount of average quality agricultural land.

### ***Murray Regional Environmental Plan No. 2 – Riverine Land***

This REP is now deemed to be a SEPP for the purposes of the EP&A Act. The aims of the REP are to conserve and enhance the riverine environment of the River Murray for all users. This environment includes all waterways, river beds and banks, associated tributaries, wetlands and water bodies (including the Edward River).

The REP requires at clause 4 for Council to consider the objectives and planning principles expressed in it when preparing an LEP. The specific principles in the REP applicable to the Planning Proposal include access, bank disturbance, flooding, land degradation, landscape, river related uses and water quality.

- The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.
- Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.
- Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.
- Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.
- Where land is subject to inundation by floodwater:
  - (a) the benefits to riverine ecosystems of periodic flooding,
  - (b) the hazard risks involved in developing that land,
  - (c) the redistributive effect of the proposed development on floodwater,
  - (d) the availability of other suitable land in the locality not liable to flooding,
  - (e) the availability of flood free access for essential facilities and services,
  - (f) the pollution threat represented by any development in the event of a flood,
  - (g) the cumulative effect of the proposed development on the behaviour of floodwater, and
  - (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.
- Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.
- Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.
- Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.
- Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.

- Development which would intensify the use of riverside land should provide public access to the foreshore.
- New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located:
  - (a) on flood free land,
  - (b) close to existing services and facilities, and
  - (c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.
- All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.
- Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values. Land use and management decisions affecting wetlands should:
  - (a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,
  - (b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,
  - (c) control human and animal access, and
  - (d) conserve native plants and animals.

An assessment of the Planning Proposal against these principles reveals the following:

- The subject land already extends to the Edward River and as such the proposal does not affect existing public access. Providing public access to the river is an option for the developer of the land once rezoned. The developer has indicated that he is prepared to dedicate some river front land to Council as public reserve and prior to the dedication undertake enhancement on this land.
- It is likely the grazing of the subject land will cease with the Planning Proposal and as damage by any existing stock access to the Edward River and use of the floodplain will cease.
- The Planning Proposal will result in some disturbance to the floodplain although building setbacks from the river itself will ensure disturbance to the bank is minimised.
- The current LEP shows more than half of the subject land is subject to flooding from the Edward River. Following the Gateway further investigations may be required in regards to flooding.
- Mitigation measures such as building heights can reduce the impacts of flooding.
- The risk of land degradation resulting from the Planning Proposal will depend almost entirely on the activities of those persons occupying the land.
- The creation of a number of lots within the floodplain will be detrimental to the riverine landscape as it will introduce additional dwellings and associated works and structures into an environment where just one building currently exists (on the floodplain). The effect on the riverine landscape will largely depend on the distance of buildings to the river and the design of buildings

constructed. Any vegetation removal from the floodplain will be detrimental to the landscape.

- Some of the development envisaged by the Planning Proposal cannot be undertaken on flood-free land, which contravenes one of the REP principles. However the subject land is close to the urban services and facilities offered by the Deniliquin township.
- The subject land is not 'prime' agricultural land (see above).
- There is potential for water quality within the river to be detrimentally affected by the Planning Proposal if stormwater discharges from the subject land are not managed. This is a development matter and there are ways and means of ensuring stormwater is adequately 'treated' before discharge.
- A wetland exists within the floodplain in the southern part of the subject land. This has the potential to assist in stormwater management as well as be maintained as a benefit to the environment.

In conclusion, whilst the Planning Proposal can satisfy some of the planning principles expressed in the REP, it performs poorly against others and particularly in regards to flooding, however post Gateway further investigation can be undertaken in regards to flooding and mitigation measures can be undertaken to ensure flooding issues are addressed.

### ***Other State Environment Planning Policies***

All State Environment Planning Policies were considered as part of the planning proposal. With exception of the SEPPs listed above, no other SEPPs provided direction or were applicable in regards to the proposed rezoning.

### **Is the Planning Proposal consistent with applicable Ministerial Directions (S.117 Directions)?**

Section 117 of the EP&A Act allows the Minister for Planning to give directions to Councils regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of draft LEPs. A Planning Proposal needs to be consistent with the requirements of the Direction but can be inconsistent if justified using the criteria stipulated such as a Local Environmental Study or the proposal is of "minor significance". Those S117 Directions considered relevant to this Planning Proposal are as follows:

#### ***1.2 Rural Zones***

This Direction is applicable because the Planning Proposal proposes changes to the existing rural zone.

The proposal is inconsistent with the Direction as it does not allow the rezoning of rural land however the proposed rezoning will result in a minimal loss of agricultural land, it has already been concluded that the overall community benefit outweighs this concern (see above). The land to be removed from rural zone will have a minimal impact on the agricultural industries in Deniliquin due to the small size of land to be removed.

The inconsistency is justified on the grounds that the Planning Proposal is of minor significance within the context of rural land and zoning. The subject land to be

rezoned is minimal and has limited agricultural significance and close proximity to residential dwellings.

### ***1.3 Minim, Petroleum Production and Extractive Industries***

This Direction is applicable because the Planning Proposal will restrict the potential development of land resources as the proposed land use will be incompatible with such development.

The planning proposal is consistent with this Direction because there are no known land resources on the subject land or surrounding land. The proposal has is unlikely to lead to any land use conflict from the development of any land resources as due to the nature and scale of the proposal and that it is unlikely that any land resources occur in the area.

### ***1.5 Rural Lands***

This Direction is applicable because the Planning Proposal affects land within an existing rural zone.

The Planning Proposal is consistent with this Direction because it generally satisfies the Rural Planning Principles expressed in the SEPP (Rural Lands)(see above).

### ***3.1 Residential Zones***

This Direction is applicable because the proposal is to include the land within R5 (a residential zone).

The planning proposal is consistent with this direction. The proposal seeks to encourage variety and choice of housing types to provide for existing and future housing needs in Deniliquin. It will make efficient use of existing infrastructure and has a minimal impact of the environment and resource lands.

### ***3.4 Integrating Land Use and Transport***

This Direction is applicable because it proposes to create an urban zoning over the subject site.

The planning proposal is consistent with this direction as it is of minor significance and the nature and scale of the proposal will only result in a minimal impacts traffic and transport in the area.

### ***4.3 Flood Prone Land***

This Direction is applicable because parts of the subject land are identified in the LEP as flood prone.

This Direction prohibits rezoning flood prone land from rural to urban and therefore the Planning Proposal is inconsistent however the proposal includes low density residential development and associated infrastructure and the nature and scale of the development is considered to be of a minor significance.

An investigation into the flood levels of the site has been undertaken. Council has agreed that the 1% AEP flood is 92.84 AHD level for the subject land and that the 1 in 20 year flood is 92.12 AHD which is why the subject land is mapped as flood liable in the LEP. The investigation illustrated that to meet Councils current policy the floor level of any habitable building on the site of 92.94 meters or alternatively provide flood protection in other ways.

The proposal is of minor significance and mitigation measures can address the flooding issues.

#### **4.4 Planning for Bushfire Protection**

This Direction is applicable because the subject land includes land that is mapped as bushfire prone. The bushfire map shows the subject land as being category 1 vegetation and is affected by a variable vegetation buffer of either 30m or 100m. The site is generally flat, with parts been cleared for cropping.

The Planning Proposal does not propose to introduce the specific provisions required by this Direction. In accordance with the Direction and upon receipt of a positive gateway determination, Council will consult with the RFS to satisfy the Direction the RFS will need to sign off on the suitability of the change of land use.

#### **6.2 Reserving Land for Public Purposes**

This Direction is applicable because the RTA have advised that the subject land will be affected as the highway is to be widened.

The Planning Proposal proposes to facilitate the Direction by facilitating land reserved for public purposes. This issue is being addressed in the standard instrument draft LEP.

### **4.3 ENVIRONMENTAL, SOCIAL & ECONOMIC IMPACT**

**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?**

Biodiversity mapping from the then Department of Environment Climate Change and Water (DECCW) indicates part of the subject land (the floodplain) is 'floodplain wetland'. A small portion of the subject site is identified as floodplain wetland, the proposed subdivision has been designed to ensure the area is maintained in one lot and any impacts to the area are minimised.

The presence of any potentially threatened habitat or species is not known and no information in this regard was submitted with the request for rezoning. Following a positive gateway determination an assessment would be undertaken to determine any potential habitat or species on the site.

The draft standard instrument LEP does not identify the majority of the subject land as having biodiversity significance.

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

Any potential environmental impacts will stem from the development of the subject land once it is rezoned. These are matters for any development application made for the subject land. There is no reason that subject to compliance with the application requirements of the EP&A Act and assessment by Council under Section 79C that development could not be undertaken on the subject land without impacting significantly on the environment.

**How has the Planning Proposal adequately addressed any social and economic effects?**

The social and economic benefits of the Planning Proposal are considered to be positive (see assessment earlier in the report). They are also minor matters for consideration having regard for the circumstances of what is proposed.

#### **4.4 STATE & COMMONWEALTH INTERESTS**

##### **Is there adequate public infrastructure for the Planning Proposal?**

The Guide states this question only requires consideration for proposal resulting in excess of 150 residential lots being created. Consequently it is not relevant to this Planning Proposal.

##### **What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Subject to the requirement of the gateway determination, Council intends consulting with the appro

#### **5. COMMUNITY CONSULTATION**

There has not been any community consultation to date for the Planning Proposal. Once the gateway determination is complete, the proposal will be publicly exhibited. The public exhibition would be undertaken for a minimum of 28 days and would be notified in the local media with information available on Council's website. Adjoining owners would be notified of the Planning Proposal.

#### **6. CONCLUSION**

Council has resolved to support a Planning Proposal for the rezoning of rural land on the eastern urban fringe of Deniliquin for the purposes of rural residential development. The location of the subject land within the context of Deniliquin and the high levels of residential amenity offered by the proximity of a riverine environment are strong factors in support of the Planning Proposal.

It is likely that there is and will continue to be strong demand for rural residential lots and the proposal provides diversity in lifestyle choice in Deniliquin. The subject land is on the urban fringe of Deniliquin and therefore is orderly development which can tap into existing urban infrastructure.

Although the subject land has been identified as flood prone further investigation into this issue will be completed following the Gateway process.

The planning proposal will provide economic and social benefits to Deniliquin with minimal impacts on agricultural land and therefore is worthy of supporting for change in zoning to facilitate rural residential development.

## **APPENDIX A**

Subject Land

**DENILQUIN SHIRE COUNCIL**  
**Kyalite Stables - Vegetated Areas**



**LEGEND**

| PROXIMITY         | ZONE INDEX               |
|-------------------|--------------------------|
| Parcel (unshaded) | 1. RURAL                 |
| Property          | 100-General Rural        |
| State Forest      | 101-Rural Small Holdings |
| Lake              | 102-Rural (Forest)       |
| Waterway          | 2. URBAN                 |
| Road              | Residential              |
| Railway           | Commercial               |
| Bridge            | Industrial               |
| Transmission Line | 3. OPEN SPACE            |
| Airport           | Public                   |
|                   | Public                   |

Overview Map



MapScale

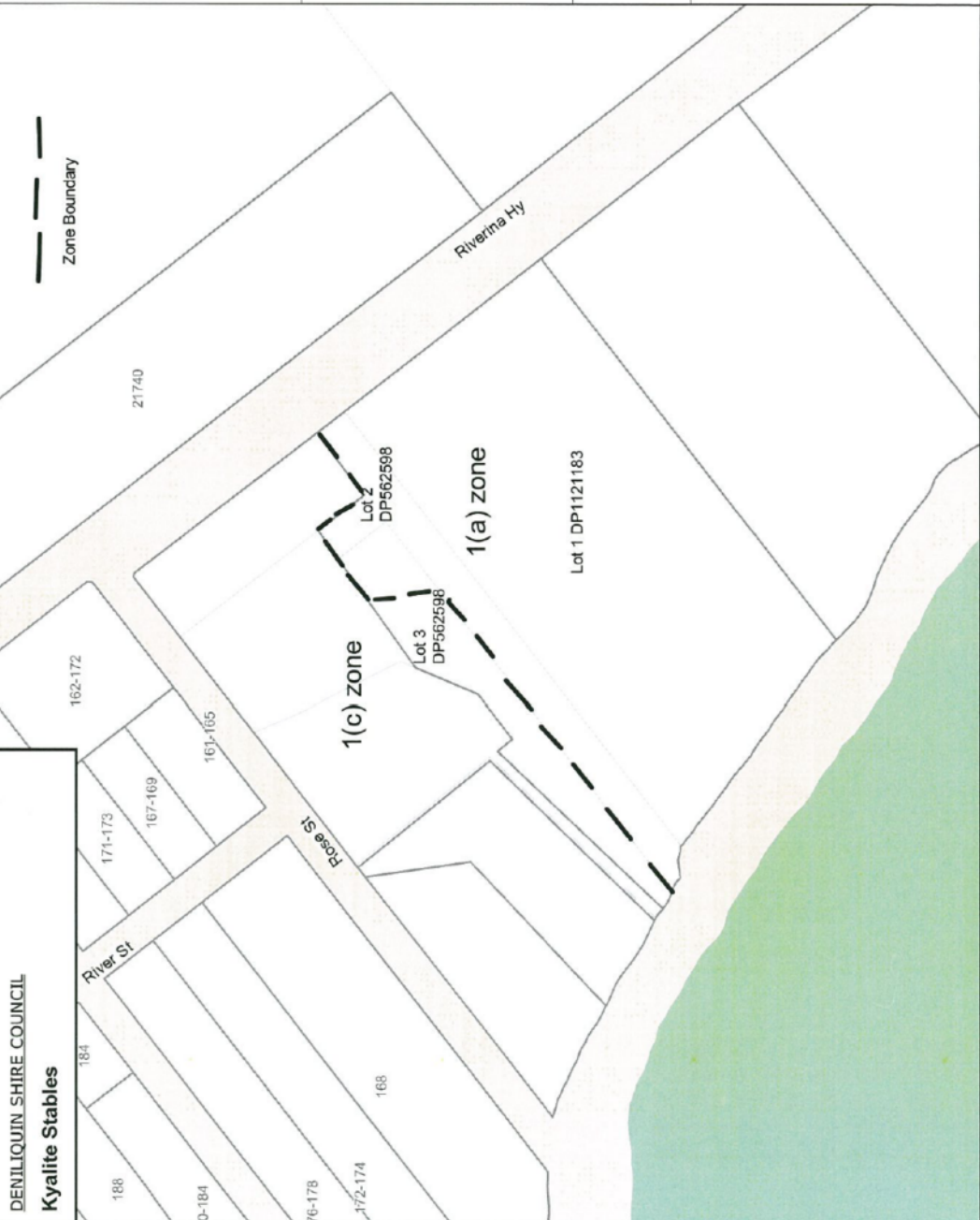
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**DENILIQUIN SHIRE COUNCIL**  
**Kyalite Stables**



**LEGEND**

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



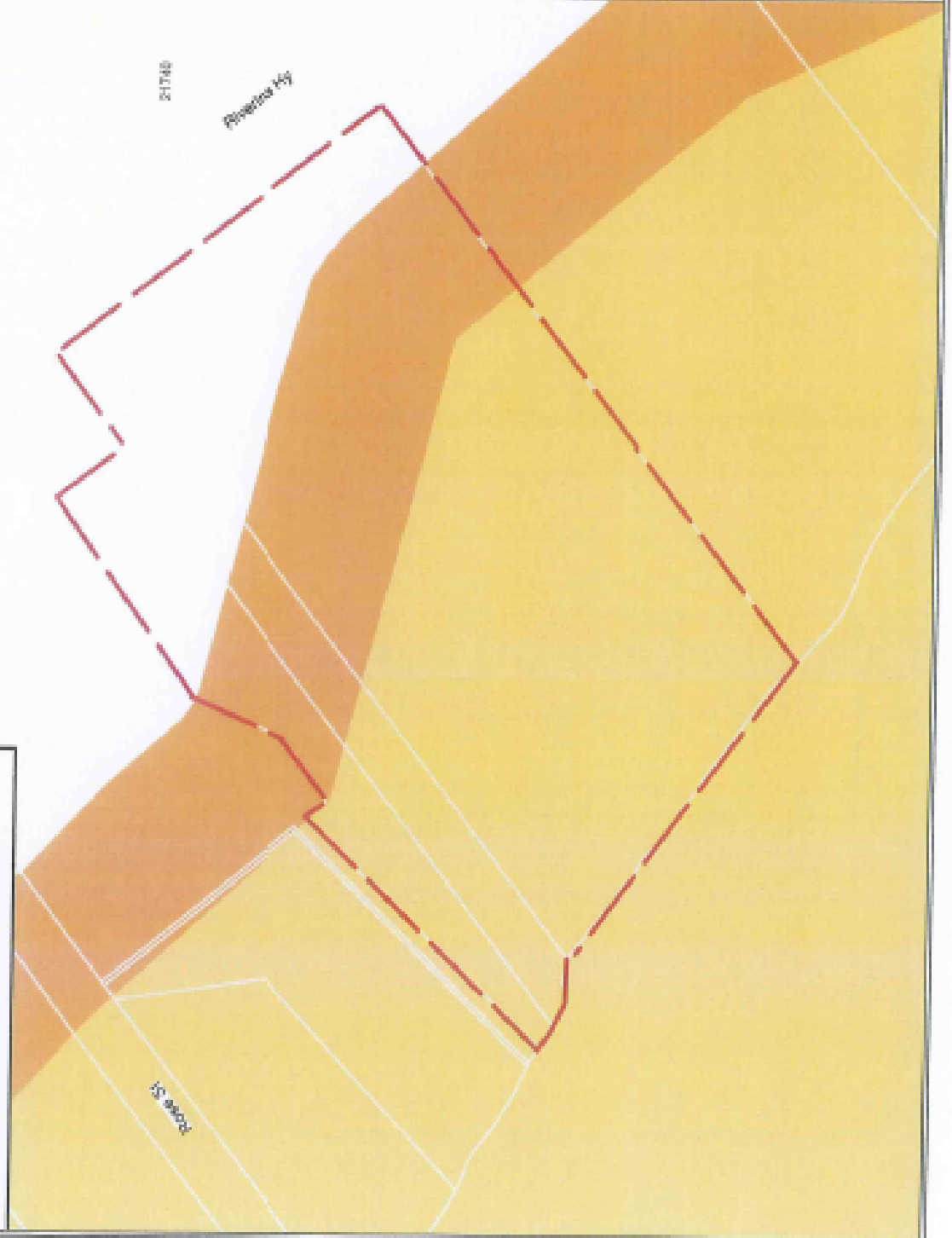
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**1 : 5000**



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DEMILQUIN SHIRE COUNCIL

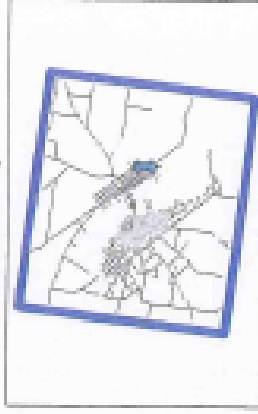
Kyalite Stables - Bushfire Prone Land



LEGEND

| PROPERTY            | ZONE INDEX                |
|---------------------|---------------------------|
| Parcel              | 1. RURAL                  |
| Parcel (unattached) | 1(a) General Rural        |
| Property            | 1(b) Rural Small Holdings |
| State Forest        | 1(c) Rural (Forest)       |
| Lake                | 2. URBAN                  |
| Waterway            | Residential               |
| Road                | Commercial                |
| Railway             | Industrial                |
| Bridge              | 3. SPECIAL SPACE          |
| Transmission Line   | Private                   |
| Airport             | Public                    |
|                     | +                         |

Overview Map



MapScale

1 : 3502



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Kyalite Stable  
Flood liable land  
1(a) LEP 1997





## **APPENDIX B**

Survey Plan with levels

LOTS 2 & 3, D.P. 562598 AND LOT 1, D.P. 1121163  
PARISH OF NORTH DENLIQUIN - COUNTY OF TOWNSEND  
SCALE 1:2500 (A3)

EXISTING COTTAGES  
PRIVATE ACCESSWAYS  
EXISTING DAM TO BE ENLARGED



ROSE STREET

# RIVERINA (VAR. WIDTH) HIGHWAY

