

### Deniliquin - Kyalite Stables - Rural Residential Rezoning

Proposal Title : **Deniliquin - Kyalite Stables - Rural Residential Rezoning**

Proposal Summary : **The Planning Proposal will rezone 3 lots (approximately 13.6 ha) from 1(a) General Rural Zone to 1(c) Rural Small Holding Zone.**

PP Number : **PP\_2012\_DENIL\_001\_00**

Dop File No :

**12/01723-1**

#### Proposal Details

Date Planning : **28-Mar-2012**

Proposal Received :

LGA covered :

**Deniliquin**

Region : **Western**

RPA :

**Deniliquin Council**

State Electorate : **MURRAY DARLING**

Section of the Act :

**55 - Planning Proposal**

LEP Type : **Spot Rezoning**

#### Location Details

Street : **Riverina Highway**

Suburb : **Deniliquin**

City : **Deniliquin**

Postcode : **2710**

Land Parcel :

#### DoP Planning Officer Contact Details

Contact Name : **Robert Bisley**

Contact Number : **0268412180**

Contact Email : **robert.bisley@planning.nsw.gov.au**

#### RPA Contact Details

Contact Name : **Julie Rogers**

Contact Number : **0358983000**

Contact Email : **julie.rogers@deniliquin.nsw.gov.au**

#### DoP Project Manager Contact Details

Contact Name : **Tim Deverell**

Contact Number : **0268412180**

Contact Email : **tim.deverell@planning.nsw.gov.au**

#### Land Release Data

Growth Centre : **N/A**

Release Area Name :

**N/A**

Regional / Sub : **N/A**

Consistent with Strategy :

**N/A**

Regional Strategy :

## Deniliquin - Kyalite Stables - Rural Residential Rezoning

|                                                                            |       |                                                      |             |
|----------------------------------------------------------------------------|-------|------------------------------------------------------|-------------|
| MDP Number :                                                               |       | Date of Release :                                    |             |
| Area of Release (Ha) :                                                     | 13.60 | Type of Release (eg Residential / Employment land) : | Residential |
| No. of Lots :                                                              | 13    | No. of Dwellings (where relevant) :                  | 13          |
| Gross Floor Area :                                                         | 0     | No of Jobs Created :                                 | 0           |
| The NSW Government Lobbyists Code of Conduct has been complied with : Yes  |       |                                                      |             |
| If No, comment :                                                           |       |                                                      |             |
| Have there been meetings or communications with registered lobbyists? : No |       |                                                      |             |
| If Yes, comment :                                                          |       |                                                      |             |

### Supporting notes

Internal Supporting Notes : **The Planning Proposal is required to achieve Council's resolution to apply the 1(c) Rural Small Holdings Zone to the area identified as Kyalite Stables.**

**Council submitted it's original Planning Proposal on the 21st of December 2011 seeking a Gateway Determination. The Department wrote to Council 31 January 2012 advising that the Planning Proposal was incomplete in accordance with the Department's "Guide to preparing planning proposals", and additional information was required to assess the Planning Proposal.**

**Council resolved to prepare this Planning Proposal prior to commencement of the Comprehensive Deniliquin LEP 2012. Council is advancing it's draft principal LEP but is yet to receive a S65 certificate.**

External Supporting Notes :

### Adequacy Assessment

#### Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **Council has adequately identified the intention of the Planning Proposal.**

#### Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **Despite not specifically addressing the 'Explanation of provisions' it is evident in the Planning Proposal how Council intends to achieve its Statement of Objectives.**

#### Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

**1.2 Rural Zones**

\* May need the Director General's agreement

**1.3 Mining, Petroleum Production and Extractive Industries**

**1.5 Rural Lands**

- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified? **SEPP No 55—Remediation of Land  
SEPP (Rural Lands) 2008**

e) List any other  
matters that need to  
be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **The Planning Proposal is inconsistent with the following directions 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environment Protection Zones, 3.1 Residential Zones, 3.3 Home Occupations, 3.5 Development near Licensed Aerodromes and 4.3 Flood Prone Land.**

#### **1.2 Rural Zones**

The subject land is zoned 1(a) General Rural under the Deniliquin LEP 1997. The Planning Proposal is deemed to be inconsistent with the terms of this Direction as it seeks to rezone land from a rural zone to a residential zone increasing the permissible density of land within the rural zone. Council has sought to justify the inconsistency as of minor significance due to the minimal loss of agricultural land and proximity to town. If the Planning Proposal was to proceed, the inconsistency would need to be justified.

The inconsistency can also be justified by a Strategy or Study, both of which have not been prepared by Council. However, it is noted that Council has recently employed a consultant to prepare a 'rural residential strategy'. An option would be to wait until Council has finished it's Strategy to support the rezoning.

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

The Planning Proposal is inconsistent with this Direction as consultation with the Director-General of the Department of Primary Industries (DPI) has not yet occurred. If the Planning Proposal is issued a Gateway Determination, Council will be required to undertake the consultation with the Director – General of DPI prior to making the Plan to justify the inconsistency.

#### **1.5 Rural Lands**

The Planning Proposal has not adequately addressed this S117 direction. Council has considered this Direction. However, Council has not provided an adequate assessment of the 'rural planning' or 'rural subdivision' principles listed in SEPP (Rural Lands) 2008. An assessment of consistency with the SEPP(Rural Lands) 2008 Rural Planning Principles has been undertaken in the SEPPs assessment section of the report.

It is noted Council has commenced a Rural Residential Strategy to identify and assess suitable rural residential land. Inconsistency with this Direction can be satisfied when a

Planning Proposal is supported by a Strategy that takes consideration of this Direction.

## **2.1 Environment Protection Zones**

The Planning Proposal has inadequately addressed this Direction. The Planning Proposal states that other than the floodplain wetland, no other portion of the site has been identified as of environmental sensitivity. However, the draft Deniliquin Biodiversity map, Planning proposal Appendix 8 and aerial photography identifies a large portion of the site also having biodiversity value. The Planning Proposal is inconsistent with this Direction as it fails to facilitate the protection and conservation of the environmentally sensitive areas. If Gateway determines the Planning Proposal proceed, Council will need to justify inconsistency with this Direction.

## **3.1 Residential Zones**

This Direction applies as the Planning Proposal proposes to affect land within a proposed residential zone or where significant residential development is permitted. The Planning Proposal is inconsistent with this Direction as it contains provisions that will increase the consumption of land for housing and associated urban development on the urban fringe. The zoning will change the minimum lot size of proposed area from 40ha to 5000sqm. Despite being named the 1(c) Rural Small Holding zone, the purpose of the zone is to provide for residential dwellings. The inconsistency is not justified as the land is not the subject of a strategy or study endorsed by the Director General of the Department. Council has not addressed this inconsistency and will need to justify the inconsistency.

## **3.3 Home Occupations**

The Planning Proposal is inconsistent with this Direction as Home Occupations are required with consent in the 1(a) General Rural and 1(c) Rural Small Holding zones. Inconsistency with this Direction may be justified as of minor significance. The inconsistency is considered to be of minor significance as Council is currently preparing the draft Deniliquin 2012 Principal LEP that will allow Home Occupations without consent in both the aforementioned zones.

## **3.5 Development Near Licensed Aerodromes**

The Deniliquin Obstacle Limitation Surface Map identifies the subject land in the Planning Proposal. The Planning Proposal is inconsistent with this Direction until consultation with the the Commonwealth Civil Aviation Safety Authority has occurred. Council identified in it's Planning Proposal that consultation with the Commonwealth Civil Aviation Safety Authority will be undertaken during exhibition.

## **4.3 Flood Prone Land**

Council has provided limited assessment of Direction 4.3 Flood Prone Land. The Planning Proposal is inconsistent with this Direction as consistency with the Floodplain Development Manual 2005 has not been proven. The Planning Proposal is inconsistent with this Direction as it contains provisions that will apply to the flood planning area which:

- Permit development in a floodway area.
- Permit development that may result in significant flood impacts to or from other properties.
- Permits increased development of flood prone land.

Council's flood planning maps identify that the subject land lies below the 1:100 flood planning level with part of the site being located in high hazard flood way. Noting that Council's 1:100 FPL is derived from a 1984 study.

The Planning Proposal must therefore give effect to and be consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual, including "Guidelines on development controls on low flood risk areas – Floodplain Development Manual". The latter Guidelines specify that residential development should be defined by a 100 year flood planning level and an appropriate freeboard (usually 0.5m). The proposed use is of a residential nature.

The Planning Proposal is inconsistent with the Guidelines as it seeks to allow development at the 1% FPL with a reduced freeboard (100mm). Council has sought to justify the reduced freeboard on the basis that the Floodplain Development Manual (2005) does not mandate the 500mm freeboard. However, the Guidelines on development controls on low flood risk areas state that a 500mm must be included unless exceptional circumstances are justified.

It is noted Council are justifying the Planning Proposal based on the 1984 1:100 flood planning level. Due to the age of the flood planning level, the accuracy of the flooding behaviour becomes questionable. Council has used the 1984 1:100 to identify part of the subject land is slightly above the 1:20 year flood however has not accurately identified the location of the 1:20 or the extent of the flooding or impacts. The Planning Proposal has not assessed the impact of additional houses or from existing houses on existing flood behaviour.

Appendix 7 to the Planning Proposal contains a map identifying the spot levels of flooding depth across the site. The spot levels range from 90.2m at the lowest point to 92.5m. The 1:100 (1984) is approx. identified at 92.84m which means the entire site is completely under the 1:100 Flood Planning Level (let alone the 1:100 + 500mm) and that in order to satisfy the Guidelines the lower dwellings of the proposed rezoning would need to be relocated, filled or elevated to be above the Flood Planning Level (1:100 + 500mm).

The Planning Proposal has not adequately assessed the impact on emergency services and how evacuation procedures would take place.

The Planning Proposal should not proceed due to the significant impacts of flooding upon the subject land. If Gateway determine the flooding impacts are not significant, Council will need to justify that the inconsistencies with this Direction are of minor significance.

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

The Planning Proposal is inconsistent with this Direction until consultation with the Commissioner of the NSW Rural Fire Service has been undertaken. Consultation has not yet been undertaken. The Planning Proposal acknowledges that if a Determination is issued it will be required to undertake consultation.

**Note:** The subject land has been identified as bushfire prone.

#### **6.2 Reserving Land for Public Purpose**

This Direction applies as Council advises that the Roads and Maritime Services (RMS) agency has identified a need for road widening along adjoining the Riverina Highway. If Gateway determines the Planning Proposal should proceed, further assessment with this Direction will occur once RMS has been consulted.

**SEPP (Rural Lands) 2008**

**-Rural Planning Principles**

The significance or potential of the area for agricultural production is given little consideration due to the former small scale agriculture being undertaken on the land.

The loss of agricultural potential of the land (Class 1 and/or 2 Agricultural Land Classification) is not considered in detail. Known constraints have only been discussed to a limited extent. Council's proposed Rural Residential Strategy would assist in identifying the suitability of the land identified in the Planning Proposal and other various locations surrounding Deniliquin.

**-Rural Subdivision Principles**

The Planning Proposal states that additional subdivision of the subject area (already fragmented) would be a positive outcome as it is no longer of a feasible agricultural size. The Planning Proposal has not outlined agricultural potential on the subject land. Council has inferred that the Planning Proposal will not adversely impact on agricultural potential, however this has not been justified.

Land use conflict with remaining agricultural uses in the locality has not been discussed.

The Planning Proposal's assessment of the proposed increase in settlement density against the principles of the SEPP (Rural Lands) 2008 is considered inadequate and currently inconsistent.

**SEPP 55 Remediation of Land**

The SEPP is applicable as the site has a history of agricultural use and could have potential land contamination. The Planning Proposal is inconsistent as it hasn't provided sufficient information identifying if the land could potentially be contaminated or remediated to a standard suitable for future use in accordance with Clause 6 of SEPP55. If Gateway determines the Planning Proposal should proceed, an assessment in accordance with SEPP55 will need to be undertaken.

**Murray Regional Environmental Plan No 2 – Riverine Land (MREP)**

The MREP applies as Council is preparing a Local Environmental Plan (Planning Proposal) that will affect the riverine environment of the River Murray (identified on the map). Note River Murray includes the Edward River.

When the MREP applies the 'principles' must be taken into account:

- **Access:** The MREP supports public access to the waterway and foreshore of the River Murray. The Planning Proposal does not provide continuous access to the Edward River. However, a community title reserve is proposed, which may or may not be dedicated to Council as a public reserve.
- **Bank disturbance:** The MREP outlines that riparian vegetation disturbance should be kept to a minimum in any development of riverfront land. Due to the proposed subdivision layout, it is likely to cause significant disturbance of riverfront land.
- **Flooding:** The Planning Proposal has not adequately taken into consideration a number of the flooding principles of the MREP. As previously discussed in S.117 Direction 4.3 analysis, the Planning Proposal will: cause significant risks in developing the land, may cause redistribution effects of the proposed development, inadequately

provides flood free access for essential facilities and services, potential pollution threat by development in flood events, may cause cumulative effects based on changes to floodwater behaviour and may increase costs of providing emergency services in the event of a flood.

- **Land degradation / Landscape:** The Planning Proposal has identified a significant portion of the site being subject to biodiversity constraints. The Planning Proposal has not addressed how to avoid land degradation processes and ensure the preservation of the landscape in accordance with the requirements of the MREP.

- **River related uses:** The MREP supports uses which have a demonstrated essential relationship with the River Murray, with other development being set back from the river. The Planning Proposal subdivision plan identifies a number of lots directly adjoining the River Murray. Dwellings do not have an essential relationship to the River.

- **Settlement:** The MREP states 'new or expanding settlements should be located: (a) on flood free land. As previously discussed the subject land is flood prone and considerably constrained.

- **Water quality – N/A**

- **Wetlands:** The subject land has an identified floodplain wetland. The MREP requires management decisions affecting wetlands, should provide a hydrological regime appropriate for the maintenance/restoration of the wetland, consider potential impacts, control human and animal access and conserve native plants and animals.

If Gateway determines that the Planning Proposal should proceed Council will need to undertake further analysis to ensure consistency with the MREP wetlands principle.

#### **Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment : The Planning Proposal has provided sufficient mapping to accurately identify the subject land. It is noted that the maps have not been prepared in accordance with the Department Standards technical requirements for preparing LEP maps - it is noted this is not required for amending LEPs.

#### **Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment : Council has proposed to exhibit the Planning Proposal for 28 days if issued a Gateway Determination. It is however recommended that the Planning Proposal does not proceed. If Gateway determines that the Planning Proposal should proceed, 28 days is deemed a sufficient exhibition period.

#### **Additional Director General's requirements**

Are there any additional Director General's requirements? **No**

If Yes, reasons :

#### **Overall adequacy of the proposal**

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : There is sufficient information included in the Planning Proposal for an informed decision to be made.

## **Proposal Assessment**

### **Principal LEP:**

Due Date : **December 2012**

Comments in relation to Principal LEP : **Council are still preparing it's Comprehensive LEP. Council rejected the LEP at s64 (7/12/11) and are seeking variations and legal opinions. Council resolved on 14/3/12 to defer the LEP till mid Apr 12 for further consideration and new LEP timeframe.**

### **Assessment Criteria**

Need for planning proposal : **The Planning Proposal (PP) is an appropriate means of delivering the planning outcomes that Council is seeking. However it is noted that Council is concurrently preparing a Comprehensive LEP and a Rural Residential Strategy. Council initiated the Planning Proposal prior to commencement of the Comprehensive LEP and Rural Residential Strategy. In hindsight, with the Comprehensive LEP and Rural Residential Strategy imminent, it is logical to wait before considering a Planning Proposal for amended zoning on the subject land.**

#### **Supply and Demand**

**The Planning Proposal provided a brief supply and demand analysis for rural lifestyle development within Deniliquin. The analysis discredited the existing established Rural Residential Areas based on a limited recorded subdivisions, environmental considerations, availability of infrastructure and perceived demand. The Planning Proposal did not undertake sufficient analysis to adequately determine if the subject land was a suitable location for Rural Residential development in Deniliquin. Completion of the Rural Residential Strategy would justify Council's, at present, anecdotal evidence justifying the need for the additional Rural Residential land.**

#### **Net Community Benefit**

**The Planning Proposal includes a basic Net community benefit analysis which lists a number of costs and benefits that would arise from further subdivision of the subject land.**

**In terms of Net Community Benefit, the notable advantages and disadvantages of the PP include:**

**Allowing the subdivision of the additional 1(c) land to 5000sq.m will provide additional housing choice. However, it is not justified that the subject land is suitable or the best use for that type of land use.**

**The subject rural residential land would provide additional rural residential housing opportunities however at a significant cost. There has been insufficient analysis to calculate the costs to the community of infrastructure extensions. The Planning Proposal states that the 'community would be willing to accept [the costs]', yet hasn't provided analysis of the expected costs being passed onto the community. If Gateway determines that the Planning Proposal should proceed, consultation will be required with government agencies to determine the need for additional funding/infrastructure etc.**

**The site is known to be significantly constrained with environmental issues. Costs will be transferred onto the community through flooding issues, properties potentially suffering water damage, increased demand for emergency services, costs to community services, increase risk of harm to residents, environmental impacts and a loss of agricultural land.**

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Consistency with strategic planning framework :

The land is subject to the draft Murray Regional Strategy. The draft Murray Regional Strategy does not significantly impact on the subject land.

Council does not have an adopted Strategic Land Use Plan endorsed by the Director General. Council has employed a consultant to prepare a Rural Residential Strategy to determine suitability, adequacy and locations for future rural residential development. The Strategy hasn't advanced far enough to provide guidance in determining the appropriateness of the subject Planning Proposal.

Environmental social economic impacts :

### **-Flooding**

As previously discussed in the S.117 Directions analysis, the site is notably constrained by flooding. The entire area subject of the Planning Proposal is below the 1:100 FPL and parts are also in the high hazard floodway. The "Guidelines on development controls on low flood risk area – Floodplain Development Manual" recommends that Councils should not encourage residential development on land below the 1:100 FPL.

Council's FPL of 1:100 (1984) +100mm is inconsistent with the Flood Plain Development Manual and Guidelines, for S117 Direction 4.3 Flood Prone Land.

The Office of Environment and Heritage has not been consulted regarding flooding issues and their view is not known on whether they would support the proposed zoning amendments.

### **-Biodiversity**

The subject site was assessed against the existing Natural Resource Maps in the draft Deniliquin LEP 2012. The subject land was identified on the Natural Resource Biodiversity map and it is evident from aerial photography that significant vegetation is present on the front half of the block adjoining the Edward River.

Council stated it was not aware of the site having biodiversity significance. Council has inadequately addressed biodiversity concerns relating to the subject land and provided insufficient information to suggest adequate environmental management will be undertaken.

### **-Bushfire Prone**

The subject land has been identified as bushfire prone. If the Gateway determines the Planning Proposal proceed, consultation with the NSW Rural Fire Service will need to occur to ensure consistency with S.117 Direction 4.4 Bushfire Prone Land and development of appropriate conditions to support residential development.

### **-Public Open Space/ Reserve**

The Planning Proposal identifies that a portion of the land will be dedicated as public reserve via a condition of development consent. The provision of public open space was previously considered when assessing the access and bank disturbance principles of the MREP. It is considered that the Planning Proposal would limit riparian access and the only access provided would be made through an existing wetland.

### **-Riparian Access**

The Planning Proposal indicates four lots will be created with direct frontage to the Edward River. These properties will be entitled to access stock and domestic water or 'riparian rights' under the Water Management Act 2000. Creation of new riparian rights is generally discouraged to avoid diverting scarce water resources from environmental or economic functions. Consultation with NSW Office of Water would be required if Gateway

determines that the Planning Proposal should proceed.

**-Wetlands**

The Planning Proposal identifies the presence of a floodplain wetland on part of the subject land. Insufficient environmental assessment of the management, maintenance, restoration and impacts on the wetland has been undertaken. Further assessment is required to ensure the preservation and consistency with environmental and MREP principles.

**-Groundwater**

The Planning Proposal stated there is no groundwater vulnerability mapping for Deniliquin. Despite the absence of mapping, the potential of groundwater vulnerability is high. Further consultation with the Office of Environment and Heritage/Department of Primary Industries is required to ensure adequacy.

**-Contamination**

The sites prior history of agricultural use identifies that there is potential for land contamination but did not address the issue of contamination, a need for remediation or an assessment of SEPP55. The Planning Proposal has not adequately addressed this issue.

**Assessment Process**

|                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                 |                |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|----------------|
| Proposal type :                            | <b>Routine</b>                                                                                                                                                                                                                                                                                                                                                                                                                   | Community Consultation Period : | <b>28 Days</b> |
| Timeframe to make LEP :                    | <b>6 Month</b>                                                                                                                                                                                                                                                                                                                                                                                                                   | Delegation :                    | <b>DG</b>      |
| Public Authority Consultation - 56(2)(d) : | <b>Murray Catchment Management Authority</b><br><b>Office of Environment and Heritage</b><br><b>NSW Department of Primary Industries - Agriculture</b><br><b>NSW Department of Primary Industries - Minerals and Petroleum</b><br><b>Office of Environment and Heritage - NSW National Parks and Wildlife Service</b><br><b>NSW Rural Fire Service</b><br><b>Transport for NSW - Roads and Maritime Services</b><br><b>Other</b> |                                 |                |

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **The Planning Proposal should be refused for the following reasons:**

1) The Planning Proposal provided an unsubstantiated supply and demand analysis for rural lifestyle within Deniliquin. The analysis discredited the existing established Rural Residential Areas based on a limited recorded subdivisions, environmental considerations, availability of infrastructure and perceived demand. The evidence in the Planning Proposal does not validate sufficient demand for additional Rural Residential development.

2) Council is currently preparing a Rural Residential Strategy to determine suitable and adequate locations for future rural residential development. The Planning Proposal should be deferred until completion of that Strategy.

3) The Planning Proposal is inconsistent with S117 Direction 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environment

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Protection Zones, 3.1 Residential Zones, 3.3 Home Occupations, 4.3 Flood Prone Land, SEPP55 Remediation of Land and the Murray Regional Environmental Plan No 2 – Riverine Land.

The key constraints are:

- i) **Flooding** - The entire area subject of the Planning Proposal is below the 1:100 + 500mm FPL and parts are also in the high hazard floodway. The "Guidelines on development controls on low flood risk areas" recommends that residential development on land below the 1:100 FPL is undesirable. The key concerns are:
  - a) the extent and nature of the flooding in the location is not known,
  - b) Council's intention to develop within the high hazard floodway,
  - c) Council's intention to reduce the freeboard to a level placing residents and properties at risk (100mm freeboard versus required 500mm),
  - d) planning best practice of avoiding flood prone lands for sensitive development (dwellings) where ever possible,
- ii) **Biodiversity** - The land has been identified on the draft Deniliquin LEP 2012 Natural Resource Biodiversity Map with vegetation present on the front half of the block adjoining the Edward River.
- iii) **Bushfire Prone** - The subject land has been identified as bushfire prone.
- iv) **Wetlands** - The subject land identifies the presence of a Wetland.
- v) **Groundwater Vulnerability** - There is a high potential of groundwater vulnerability on the subject land.
- vi) **Riparian Access** - The Planning Proposal will create undesirable riparian rights along the Edward River.
- vii) The site has a prior history of agricultural uses and is potentially contaminated.

Therefore the Planning Proposal is not supported.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

**Other - provide details below**

If Other, provide reasons :

**If Gateway determine to support the Planning Proposal the following investigations would be recommended:**

**Flooding, Contamnation, Flora/fauna (Threatened Species), Groundwater, Wetlands and minerals potential.**

Identify any internal consultations, if required :

**No internal consultation required**

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

## Documents

| Document File Name                             | DocumentType Name | Is Public |
|------------------------------------------------|-------------------|-----------|
| Planning Proposal - Additional Information.pdf | Proposal          | Yes       |
| Planning Proposal.pdf                          | Proposal          | Yes       |
| PP Appendix 1.pdf                              | Proposal          | Yes       |
| PP Appendix 2.pdf                              | Proposal          | Yes       |
| PP Appendix 3.pdf                              | Proposal          | Yes       |

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|                    |          |     |
|--------------------|----------|-----|
| PP Appendix 4.pdf  | Proposal | Yes |
| PP Appendix 5.pdf  | Proposal | Yes |
| PP Appendix 6.pdf  | Proposal | Yes |
| PP Appendix 7.pdf  | Proposal | Yes |
| PP Appendix 8.pdf  | Proposal | Yes |
| PP Appendix 9.pdf  | Proposal | Yes |
| PP Appendix 10.pdf | Proposal | Yes |
| PP Appendix 11.pdf | Proposal | Yes |
| PP Appendix 12.pdf | Proposal | Yes |

## Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.2 Reserving Land for Public Purposes

Additional Information : The Planning Proposal should be refused for the following reasons:

1) The Planning Proposal provided an unsubstantiated supply and demand analysis for rural lifestyle within Deniliquin. The analysis discredited the existing established Rural Residential Areas based on a limited recorded subdivisions, environmental considerations, availability of infrastructure and perceived demand. The evidence in the Planning Proposal does not validate sufficient demand for additional Rural Residential development.

2) Council is currently preparing a Rural Residential Strategy to determine suitable and adequate locations for future rural residential development. The Planning Proposal should be deferred until completion of that Strategy.

3) The Planning Proposal is inconsistent with S117 Direction 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environment Protection Zones, 3.1 Residential Zones, 3.3 Home Occupations, 4.3 Flood Prone Land, SEPP55 Remediation of Land and the Murray Regional Environmental Plan No 2 – Riverine Land.

The key constraints are:

i) Flooding - The entire area subject of the Planning Proposal is below the 1:100 + 500mm FPL and parts are also in the high hazard floodway. The "Guidelines on development controls on low flood risk areas" recommends that residential development on land below the 1:100 FPL is undesirable. The key concerns are:

- a) the extent and nature of the flooding in the location is not known,
- b) Council's intention to develop within the high hazard floodway,
- c) Council's intention to reduce the freeboard to a level placing residents and properties at risk (100mm freeboard versus required 500mm),
- d) planning best practice of avoiding flood prone lands for sensitive development (dwellings) where ever possible,

ii) Biodiversity - The land has been identified on the draft Deniliquin LEP 2012 Natural Resource Biodiversity Map with vegetation present on the front half of the block adjoining

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the Edward River.

iii) Bushfire Prone - The subject land has been identified as bushfire prone.

iv) Wetlands - The subject land identifies the presence of a Wetland.

v) Groundwater Vulnerability - There is a high potential of groundwater vulnerability on the subject land.

vi) Riparian Access - The Planning Proposal will create undesirable riparian rights along the Edward River.

vii) The site has a prior history of agricultural uses and is potentially contaminated.

Therefore the Planning Proposal is not supported.

Supporting Reasons :

Signature:

  
\_\_\_\_\_

Printed Name:

ROBERT WISLEY

Date:

13.4.2012

Endorsed : T. Deverell 13/4/2012  
Tim Deverell  
Team Leader  
Western Region

