

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

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 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 : **NA**

Panel Recommendation

Recommendation Date : **19-Apr-2012**

Gateway Recommendation : **Rejected**

Panel

The Planning Proposal should not proceed for the following reasons:

Recommendation :

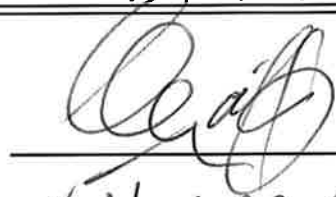
1. The planning proposal is not currently supported by any strategic planning studies. While it is noted that Council has recently committed to prepare a Rural Residential Strategy, the Department believes that it is premature to consider a proposal of this nature in the absence of an overall strategic assessment of issues related to the supply of rural residential land across the entire Local Government Area. Council is encouraged to expedite preparation of the Strategy and submit the adopted version to the Department for endorsement. The Department is happy to work with Council to assist in identifying appropriate areas for future rural residential development as part of Council's strategy.
2. The planning proposal is inconsistent with the following S117 Directions:
 - o 1.2 Rural Zones and 1.5 Rural Lands – the planning proposal is inconsistent with these Local Planning Directions as it seeks to rezone rural land for residential purposes. It is acknowledged that the loss in agricultural land may be minimal and the site is located within close proximity to the town, however the planning proposal has not been justified or supported by a study or strategy.
 - o 2.1 Environment Protection Zones – it is noted that a large portion of the site has been identified as having biodiversity value by the draft Deniliquin Biodiversity Map. The planning proposal is inconsistent with this Local Planning Direction as it fails to facilitate the protection and conservation of the environmentally sensitive areas. Therefore, sufficient justification has not been provided to address this identified inconsistency.
 - o 4.3 Flood Prone Land – it is noted that part of the site lies within a high hazard floodway, and therefore under the Local Planning Direction the planning proposal is required to give effect to and be consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual. The planning proposal has not adequately assessed the impact of additional houses on flood behaviour and the impact on emergency services and evacuation planning. Therefore, the inconsistency with the S117 Direction has not been addressed to a satisfactory standard and is not considered to be minor.
3. In regards to the planning proposal's inconsistencies with SEPP 55 – Remediation of

Land, Council has not adequately considered the potential for contamination of the land given the history of agricultural use, and whether the land can be remediated to a standard appropriate for the proposed future use in accordance with Clause 6 of the SEPP.

4. Council has not adequately addressed the following matters in relation to the Murray Regional Environmental Plan No. 2 – Riverine Land (MREP), which applies to the planning proposal as the proposed future land use will affect the riverine environment of the River Murray:

- o Bank disturbance – the proposed subdivision layout is likely to cause significant disturbance of riverfront land. The planning proposal has not identified how this will be minimised.
- o Flooding – the planning proposal has not adequately addressed a number of the flooding principles of the MREP.
- o Land degradation – it is noted that a significant portion of the site is 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.
- o River related uses – The MREP supports uses which have a demonstrated essential relationship with the Murray River, with other development being set back from the river. The planning proposal identifies residential land use directly adjoining the river, which does not have an essential demonstrated relationship with the river.
- o Settlement – the MREP states that new or expanding settlements should be located on flood free land. The subject land is flood prone and considerably constrained without adequate justification for the proposed future land use.
- o Wetlands – The MREP requires that management decisions affecting wetlands should provide a hydrological regime appropriate for the maintenance/restoration of the wetland, and in addition consider potential impacts, control human and animal access and conserve native plants and animals. Council has not undertaken sufficient analysis to determine consistency with the principles of the MREP.

Signature:



Printed Name:

Ned McAffee

Date:

26.4.12