



IRF22/3143

Gateway determination report – PP-2022-3030

Consolidation of the Deniliquin LEP 2013, the Conargo LEP 2013 and the Deniliquin LEP 1997 to create a single LEP for the Edward River Local Government Area

October 22

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2022-3030

Subtitle: Consolidation of the Deniliquin LEP 2013, the Conargo LEP 2013 and the Deniliquin LEP 1997 to create a single LEP for the Edward River Local Government Area

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (September 22) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	2
1.1	Overview.....	2
1.2	Objectives of planning proposal	2
1.3	Explanation of provisions	4
1.4	Site description and surrounding area.....	12
1.5	Mapping.....	13
2	Need for the planning proposal	13
3	Strategic assessment	13
3.1	Regional Plan	13
3.2	Local.....	13
3.3	Section 9.1 Ministerial Directions	13
3.4	State environmental planning policies (SEPPs)	15
4	Site-specific assessment	15
4.1	Environmental.....	15
4.2	Social and economic.....	16
4.3	Infrastructure	16
5	Consultation.....	16
5.1	Community	16
5.2	Agencies.....	16
6	Timeframe	16
7	Local plan-making authority	16
8	Assessment summary	16
9	Recommendation.....	17

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment 1 - August 22 final LEP Consolidation Planning Proposal PP-2022-3030
IRD22 32998 Council minute_V1_PP-2022-3030
Attachment 2 - Draft Employment Zones Reforms

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Edward River LGA
PPA	Edward River Council
NAME	Edward River Consolidated LEP (ERLEP)
NUMBER	PP-2022-3030
LEP TO BE AMENDED	Deniliquin LEP 2013 (DLEP 2013), Deniliquin LEP 1997 (DLEP 1997) and Conargo LEP 2013 (CLEP 2013)
ADDRESS	Edward River LGA
DESCRIPTION	Edward River LGA
RECEIVED	8/09/2022
FILE NO.	IRF22/3143
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal
DWELLINGS/JOBS	0/0
PCO or Map Only Amendment	PCO and Maps

1.2 Objectives of planning proposal

Page 2 of the planning proposal (**Attachment 1**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

Edward River Council was proclaimed on 12 May 2016 following the amalgamation of the former Conargo Shire Council and Deniliquin Council.

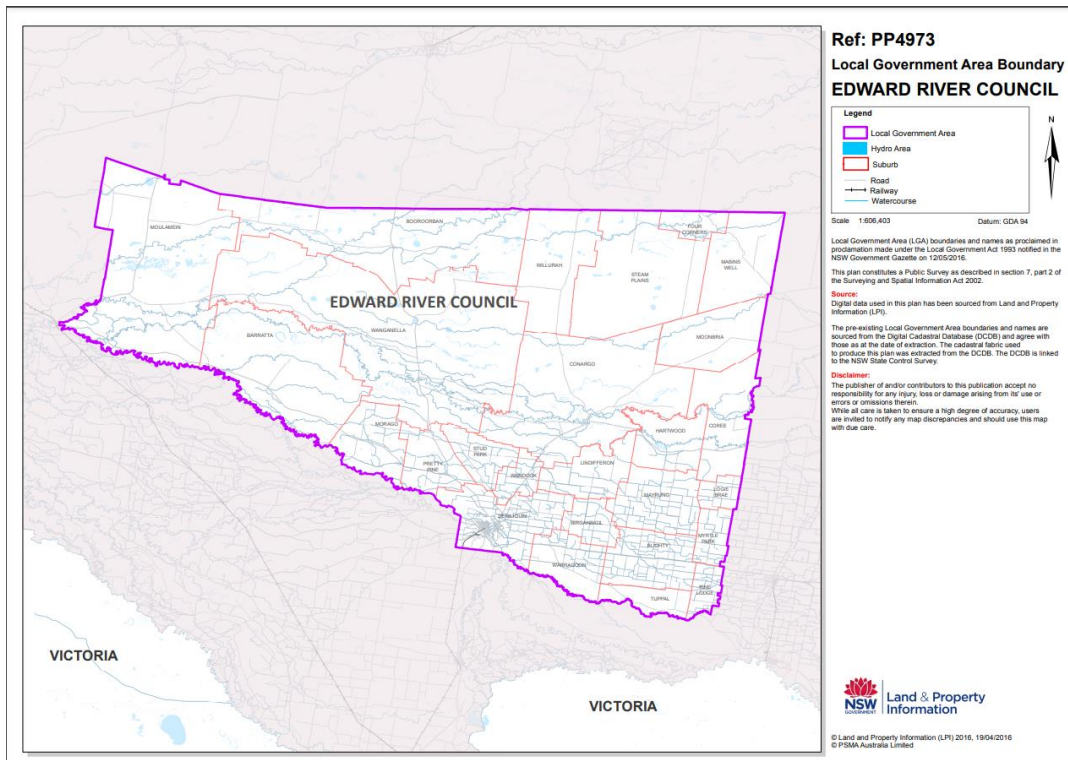


Figure 1 – Edward River Council LGA boundary (source: Edward River Council Website)

The objectives of the planning proposal are to consolidate the provisions of the DLEP 2013, CLEP 2013 and the DLEP 1997 (currently administering a 'Deferred Matter' in Deniliquin) into a single consolidated Edward River LEP for all land in the Edward River LGA.

The planning proposal states the LEP consolidation will achieve:

- A consistent approach to zone objectives, principles and application across the LGA ensuring consistency with the Standard Instrument LEP.
- Consolidation of duplicated or repetitive objectives in DLEP 2013 and CLEP 2013 that are similar in intent.
- Retention of all land use zones which are in the current LEPs.
- Consistency with permissible land uses across similarly zoned lands within the Deniliquin and Conargo LGA's.
- Adoption of standards or provisions which enable the most flexible or generous approach to development standards in certain locations or situations to ensure that existing development potential of land is retained.
- Rezoning of lands identified as 'Deferred Matter' currently administered under Deniliquin LEP 1997 to appropriate standard instrument zones to enable consolidation of this instrument into the proposed ERLEP.

Edward River Council is also using the consolidation process to rezone several community reserves/halls to RE1 Public Recreation, make shops permitted with consent in E3 Zone and make Information and Education Facilities permitted with consent in E4 Zone.

This LEP amendment will also incorporate the Employment and Industrial Zones transition.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

It is to be noted that the intent for the proposed changes is provided but where specific wording of clauses is proposed these will be subject to Parliamentary Counsel drafting and may be changed in the final legal drafting process.

1.3 Explanation of provisions

The DLEP 2013 and CLEP 2013 are in the Standard Instrument LEP format and include local objectives in addition to those mandated in the Standard Instrument LEP. The DLEP 1997 which currently applies to the 'Deferred Matter' in Deniliquin is not in the standard instrument format. For the most part, the content and controls of the DLEP 2013 and CLEP 2013 generally align in application and intent.

The planning proposal provides a structure for the new ERLEP in the standard instrument format as required by section 3.20 of the Environmental Planning and Assessment Act 1979 (Act). The proposed structure of the consolidated ERLEP and a detailed assessment of each part/schedule is outlined below. The proposed ERLEP generally adopts the existing provisions however changes to be made are discussed below.

Note: Translation of Employment zones

Council proposes to introduce the new employment zones as part of this planning proposal. Employment zones implementation is on track for notification in December 2022, with a deferred commencement date in April 2025. (refer to **Attachment 2**)

The employment zones that Council have proposed to adopt are shown in Table 3 below:

Table 3 Proposed Employment zones changes

Current Land Use Zone	Updated Employment Zone
B2 Business Centre	E1 Local Centre
B6 Enterprise Corridor	E3 Productivity Support
IN1 General Industrial	E4 General Industrial

Council has been working with the Employment Zones translation team and these zones are considered appropriate.

Part 1 – Preliminary

This section generally aligns with the Standard instrument. The sections listed below are where Council has proposed a change in wording or new content. Part 1 covers a range of preliminary matters including the overall aims of the Plan; where the Plan applies; relationships with other instruments as well as transitional arrangements.

The aims of both current SI LEPs are consolidated and updated to reflect the future desired direction for Edward River LGA. The proposed consolidated ERLEP aims are outlined below:

- to preserve rural land for all forms of primary production through the proper management, development and conservation of natural and human-made resources,
- to facilitate a range of residential and employment opportunities in accordance with demand, that contribute to the social, economic and environmental resources of the area and support the long-term and economic viability of the local community,
- to promote ecologically sustainable urban and rural development and sustainable economic growth,

- d) to protect, conserve and enhance the natural assets and areas of significance for nature conservation and high scenic or recreational value,
- e) to minimise land use conflicts and adverse environmental impacts,
- f) to provide for the orderly development of tourist activities,
- g) to minimise the cost to the community of fragmented and isolated development of rural land,
- h) to protect and conserve places and buildings of archaeological or heritage significance, including Aboriginal objects and places,
- i) to promote the efficient and equitable provision of public services, infrastructure and amenities.

All other clauses of Part 1 in the DLEP 2013 and CLEP 2013 are consistent and will be retained in the proposed ERLEP.

Part 2 – Permitted or Prohibited Development

Clauses 2.1 – 2.8 of the DLEP 2013 and CLEP 2013 are proposed to be retained in the ERLEP.

- **Land use zones**

This clause will amalgamate all zones used across the existing two LEPs. The planning proposal does not seek to introduce any new zones or remove any existing zones (other than the employment zones translation - **Attachment 2**). These changes will be exhibited with this proposal.

- **Zoning of land to which Plan applies**

This clause will be as per the Standard Instrument LEP. The clause states that land is within the zones shown on the Land Zoning Map. The planning proposal seeks to change land zoning as outlined in section 1.5 Mapping of this report which are minor mapping amendments to better reflect current land use.

- **Additional permitted uses for particular land**

This clause will be as per Standard Instrument LEP and existing additional permitted uses in both existing LEP's will be listed in Schedule 1 plus the addition of 137- 143 Napier Street, Deniliquin. Refer to Page 24 of the planning proposal. Due to the proposed changes to permissibility there may be situations where Council may wish to identify existing developments. This can be reassessed by Council after community consultation.

- **Temporary use of land**

The DLEP 2013 and CLEP 2013 both provide 52 days as a maximum period of development consent for a temporary use. This clause will be incorporated in the ERLEP.

All other clauses in Part 2 will be included as per the standard instrument.

- **Land Use Tables**

In preparing the draft land use tables, Council used a general rule of permissibility and retention. This means that the proposed permissible land uses are a combination of the permissible land uses of the two (2) existing LEPs. For example, if a use is permissible within a zone under the current Deniliquin or Conargo LEPs, it is generally proposed to be permitted within that zone under the new ERLEP. The changes to the permissible or prohibited uses within each zone are necessary to establish consistent controls for each land use zone as discussed below.

RU1 Primary Production

There are proposed amendments to the RU1 Primary Production objectives and permissibility of land uses. Appendix 5, Table 1 page 72 of the planning proposal shows the discrepancies between the current LEP's and the proposed changes. Detailed justification for the proposed amendment to

the objectives and land use from Council can be found in Table 2 page 7 of the planning proposal although the following land uses require clarification regarding permissibility prior to community consultation:-

- Light industries
- High technology industries
- Vehicle body repair workshops – reference to residential zones

The zone objectives have been updated to include the Standard Instrument objectives as well as four additional objectives that are in the CLEP 2013 but not in the DLEP 2013.

The proposed changes to land use permissibility are generally low impact. However, there are some issues and proposed prohibitions that may arise from the proposed changes as discussed below.

- **Caravan Parks**

Caravan parks are currently prohibited in the DLEP 2013 and permitted with consent in the CLEP 2013. Council has proposed to permit caravan parks with consent in the ERLEP. Caravan Parks can be problematic in the RU1 zone if not considered with appropriate locational considerations and criteria. This has been addressed by Council where it is proposed to include the following local provision (subject to legal drafting) in Part 6 Additional Local Provisions discussed below.

1. The intent of the local clause is to cover the following detail;
 - a) to enable appropriate forms of caravan parks to be developed in conjunction with primary production uses,
 - b) to encourage development that will not have an adverse impact on primary production activities in the existing area.
2. This clause applies to land in Zone RU1 Primary Production.
3. Before determining a development application for development for the purposes of a caravan park on land to which this clause applies, the consent authority must consider –
 - a) the suitability of the site for the development, and
 - b) the likely impact of the development on adjoining and adjacent land, and
 - c) that adequate access exists or will be provided to service the development from a road other than a classified road, taking into account the scale of the development, and
 - d) the development will not have a significant adverse impact on agricultural production, the scenic amenity of the locality or significant features of the natural environment, and
 - e) that adequate on-site wastewater systems will service the land without having an adverse impact on the water quality of the area, and
 - f) that adequate water supply is available for potable and firefighting purposes, and
 - g) that the development will not be affected by natural hazards

The intent of the clause is supported for inclusion in the Edward River LEP. Wording will be subject to PCO drafting. Council advise this local clause will be supported by DCP considerations. The Department supports this intent and mechanism.

- **Restaurants or Cafes, Highway Service Centres, Markets, Rural Supplies and Function Centres**

The subject uses are prohibited in RU1 zone of the DLEP 2013 and permitted with consent in the CLEP 2013. Council proposes to permit Artisan Food and Drink Industry, Highway Service Centre, Restaurant or Café, Markets, Rural Supplies and Function Centre with consent in the RU1 zone. These land uses have the potential to create impacts in the rural zone and on rural uses. An objective has been proposed that allows such land uses to be developed in conjunction with

agricultural uses if the development is appropriate. Council have also stated there will be further controls through the DCP. The Department supports this.

R5 Large Lot Residential

The objectives for this Land Use Zone have been updated to include the Standard Instrument objectives as well as two additional objectives that are in the CLEP 2013. The proposed consolidation of these objectives located in Table 4 page 12 of the planning proposal.

The changes to permissibility of land uses can also be found in Table 4 page 12 of the proposal and are generally low impact with key uses discussed below:-

- **Horticulture, Viticulture and Farm Buildings**

Horticulture, Viticulture and Farm Buildings are currently prohibited in the DLEP 2013 and permitted with consent in the CLEP 2013. Council proposes to make these land uses permitted with consent in the ERLEP, however these land uses have the potential to create land use conflict in a residential zone. It is recommended that there be adequate local provisions to minimise any potential conflict that may arise from this land use. The Department supports these land uses if location and land use conflict is considered through the DCP.

- **Restaurants or cafés, Artisan Food and drink Industry, Garden Centres, Roadside stalls, Childcare centres, Community facilities, Information and education facilities, Places of public worship, and Exhibition homes**

The subject land uses are currently permitted with consent in the DLEP 2013 and prohibited in the CLEP 2013. Council proposes to make these land uses permissible with consent in the ERLEP, however these land uses have the potential to create land use conflict in a residential zone. It is recommended that there be adequate local provisions to minimise any potential conflict that may arise from this land use. The Department supports these land uses if location and land use conflict is considered through the DCP.

E3 Productivity Support (B6 Enterprise Corridor) (Table 6 page 16 of planning proposal)

Shops are currently prohibited in this zone which is an anomaly and Council proposes to permit shops with consent in this zone to help reflect current land uses, particularly in the 'Deferred Matter'. The Department supports this change.

E4 General Industrial (IN1 General Industrial) (Table 8 page 17 of planning proposal)

Information and Education Facilities are currently prohibited in the IN1 General Industrial zone in the DLEP 2013. Council proposes to permit Information and Education Facility with consent in the ERLEP. The Department supports this.

SP2 (Infrastructure) (Table 9 page 18 of planning proposal)

The proposed uses of roads, group homes, educational establishments are permitted under related SEPP's. Council wishes to include these uses in this proposal for transparency to the community. These uses may be removed from the final legal drafting of the ERLEP.

Other land use zones

The following Land Use Zones are proposed to be incorporated into the ERLEP in their current form as there are no discrepancies between LEP's: RU3 Forestry, RU5 Village, R1 General Residential, RE1 Public Recreation, RE2 Private Recreation, C1 National Parks and Nature Reserves, C2 Environmental Conservation, C3 Environmental Management, W1 Natural Waterways and W2 Recreational Waterways. The Department supports this.

Part 3 – Exempt and complying development (page 19 of planning proposal)

The planning proposal does not seek to introduce new controls for exempt or complying development and will rely on the SEPP provisions.

In Schedule 2 of the CLEP 2013 advertisements and advertising structures, real estate signs and signs behind glass line of shop windows are identified as exempt development. These exemptions are inconsistent with the SEPP Exempt and Complying Development Codes and SEPP (Industry and Employment) 2021. Council proposes to remove these exemptions from the ERLEP.

Part 4 – Principal Development Standards

The planning proposal has updated some of the clauses in part 4 to ensure consistency across the LGA with the consolidation of the current LEP's. Table 10 page 19 of the planning proposal contains justification and recommendations from Council regarding the proposed changes. A summary of changes proposed to part 4 is provided below.

• 4.1 Minimum subdivision lot size

The objectives of this clause have been combined from the DLEP 2013 and the CLEP 2013 and are considered appropriate to ensure a consistent set of local clauses across the LGA. The proposed objectives are as follows:

- to maintain appropriate farm sizes for agricultural production and protect the productive capacity of agricultural land,
- to ensure that rural residential development does not result in fragmentation of rural lands,
- to ensure that subdivision does not unreasonably impact on the natural and environmental values of the area,
- to ensure that new subdivisions reflect the characteristic lot sizes and patterns of the surrounding locality, and have a practical and efficient layout to meet their intended use,
- to minimise the intensification of development on flood liable land,
- to ensure that the creation of lots and any subsequent development on such lots does not create a demand for the uneconomic provision of services by Council

No changes to minimum lot sizes are proposed by Council.

• 4.1AA Minimum subdivision lot size for community title schemes and clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones

In the DLEP 2013 this clause prevents land in the R5 and E3 (C3) zones from being subdivided below the minimum lot size using a community title scheme and strata title scheme respectively. These land use zones are not in the CLEP 2013 and are proposed to be included in the ERLEP to ensure additional dwelling entitlements are not created where not appropriate.

• Clauses 4.1A (Exceptions to minimum subdivision lot sizes for certain split zones) and 4.1B (Exceptions to minimum subdivision lot sizes for certain rural subdivisions)

These clauses are currently in the DLEP 2013 but not in the CLEP 2013. Council proposes to incorporate these clauses in the ERLEP. The Department supports the inclusion of these clauses.

• Clause 4.2B- Erection of dwelling houses on land in certain rural and environmental protection zones

This clause applies to Zone RU1 Primary Production and Zone E3 (C3) Environmental Management zones in the DLEP 2013 and only RU1 Primary Production zone in the CLEP 2013. Council proposes to include the DLEP 2013 clause in the ERLEP. The Department supports this.

• DLEP 2013 clause 4.2D Boundary changes between lots in certain rural, residential and environment protection zones

This clause in the DLEP 2013 applies to RU1, R5 and E3 (C3) zoned land and allows the subdivision of 2 or more adjoining lots below the minimum lot sizes in certain circumstances. Council proposes to include this clause in the ERLEP to enable a more flexible approach to boundary changes and ensure that existing development and consistency potential of land is retained. The Department supports this.

- **CLEP 2013 Clause 4.2D Subdivision for the purposes of intensive plant agriculture**

This clause in the CLEP 2013 applies to RU1 zoned land and provides a consistent and more flexible approach in the application for standards for subdivision for the purpose of intensive agriculture in the rural zone. Council proposes to include this clause in the ERLEP. The Department supports this.

Part 5 - Miscellaneous Provisions (Table 11 page 22 of the planning proposal)

- **5.4 Controls relating to miscellaneous permissible uses**

This clause nominates the area or size of several land uses. In most instances these are different between the two current LEPS. Council proposes to adopt the provisions in the CLEP 2013 as it provides the greatest flexibility. The Department support this.

Part 6 – Additional Local Provisions

- **Clauses 6.5 Salinity in DLEP 2013 and 6.7 Salinity in CLEP 2013** have slight wording discrepancies between them. Council proposes to include the clause from the CLEP 2013 is preferred. The Department supports this.
- **Clauses 6.8 Location of sex services premises in DLEP 2013 and Clause 6.9 Location of sex services in CLEP 2013.**

The clause in DLEP 2013 requires that when deciding whether to grant development consent for the purpose of sex services premises, consideration must be given to whether the premises will be located on land that adjoins or is directly opposite land in R1 and RE1 zones. The CLEP 2013 provision refers to RU5 and R5 zones. Council proposes to include all above mentioned land use zones in this clause in the ERLEP. The Department supports this.

“Deferred Matter” –

During the preparation of the DLEP 2013, Council had unresolved concerns regarding the rezoning of land in Davidson Street (refer to **Figure 2**). The rezoning was deferred pending the finalisation of the Edward River Flood Study. The subject land has been administered under the DLEP 1997 with the current zoning depicted in **Figure 3** below.



Figure 2 'Deferred Matter' (source: Planning proposal provided by Edward River Council)

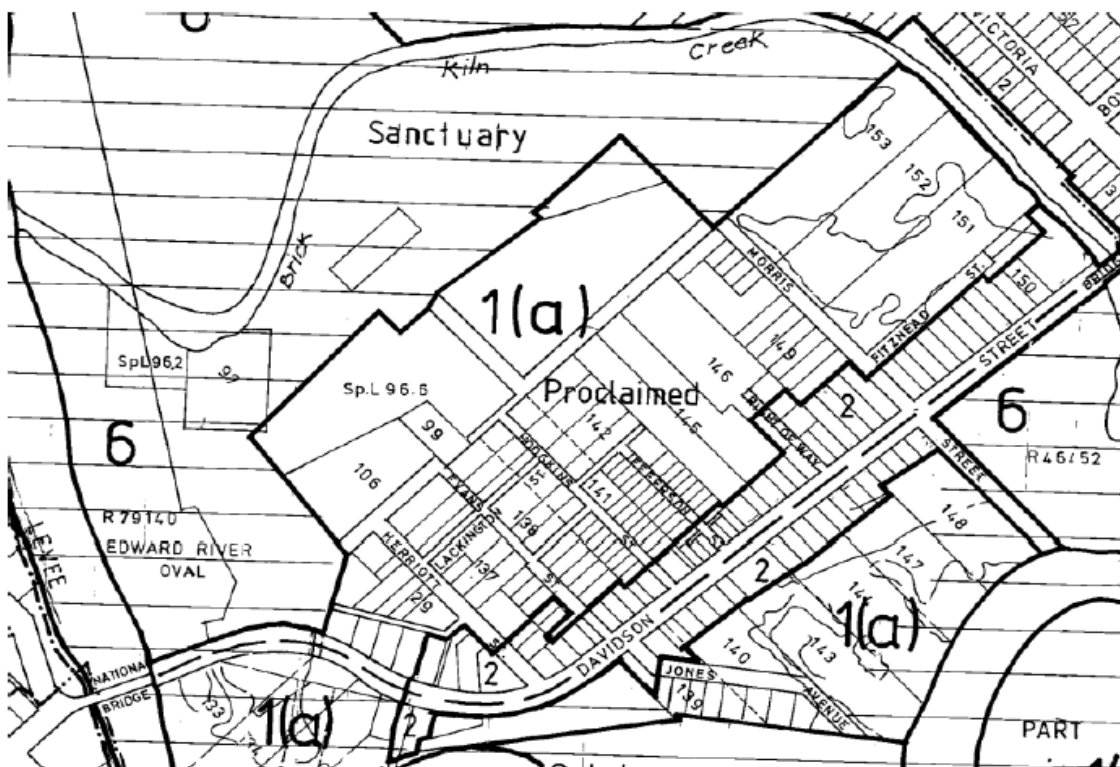


Figure 3 'Deferred Matter' Current zoning map (source: Planning proposal provided by Edward River Council)

Following the flood study in 2014 Council amended the DLEP 1997 (Amendment No 3) and DLEP 2013 (Amendment 9) on 3 July 2020 to update flood planning controls. Council proposes to include the 'Deferred Matter' area in the new ERLEP which requires the subject land and any associated matters to be consistent with the Standard Instrument. The proposed zoning changes with no proposed MLS can be seen in **Figures 4 and 5** below:-

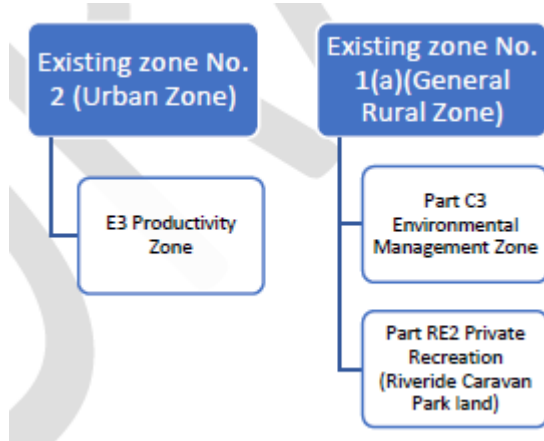


Figure 4 – Proposed zone changes for 'Deferred Matter' (source: Planning proposal provided by Edward River Council)



Figure 5 'Deferred Matter' Proposed zoning map (source: Planning proposal provided by Edward River Council)

Rezoning of community recreation reserves/halls

As a part of the consolidation, Council proposes to rezone 5 community recreation reserves/halls to reflect current land use. Table 4 below shows the current and proposed zoning of these sites. Aerial images of the sites and their location in the LGA can be found at Figure 6 below.

Recreation Facility	Title Details	Current Zoning	Proposed Zoning	Minimum Lot Size
Pretty Pine Recreation Ground	Lot 7007 & Lot 7008 DP1023663	RU1	RE1	N/A
Wanganella Hall	Lot 88 DP1230613, Lot 7 & Lot 8 Sec 8 DP759045	RU5	RE1	N/A
Boooroorban Hall	Lot 7303 DP1157228	RU1	RE1	N/A
Conargo Recreation Ground	Lot 123 DP756268	RU5	RE1	N/A
Blighty Recreation Reserve	Lot 72 DP756319	RU1	RE1	N/A

Table 4 current and proposed zoning of community recreation reserves/halls (source: Planning proposal provided by Edward River Council)

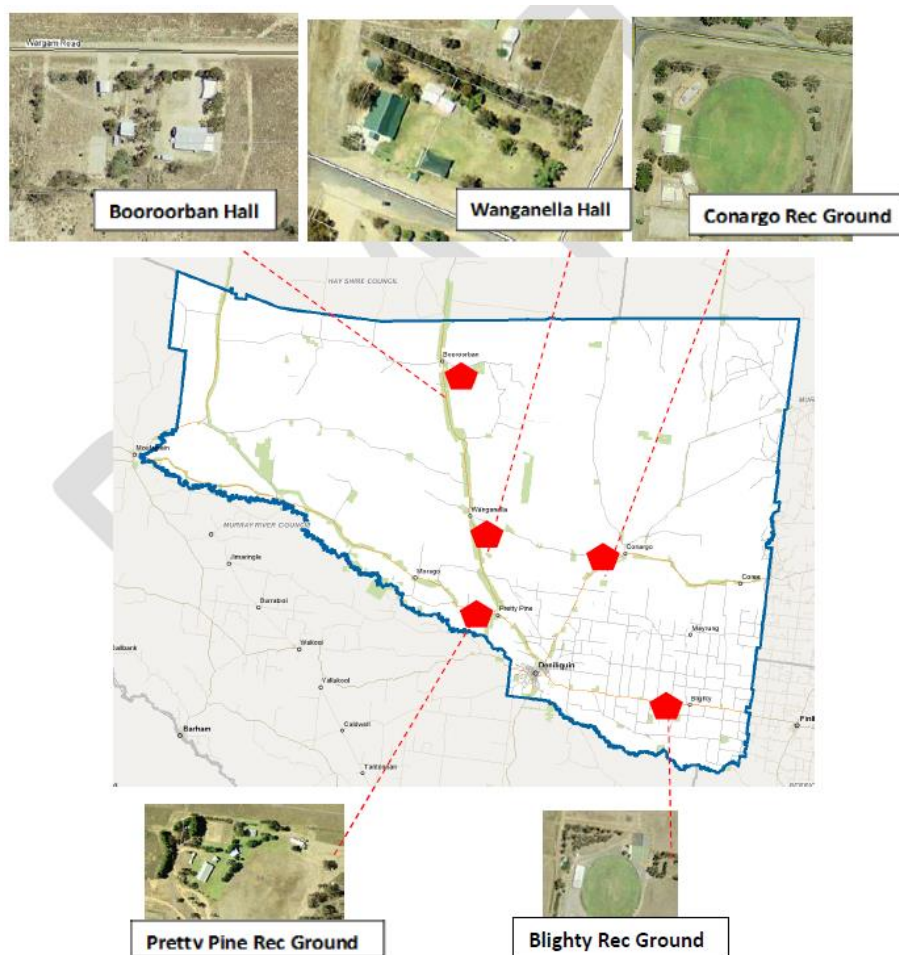


Figure 6 Community recreation reserves/halls for proposed rezoning (source: Planning proposal provided by Edward River Council)

1.4 Site description and surrounding area

This planning proposal applies to all land within the Edward River LGA. Refer to **Figure1**.

Edward River Council was proclaimed on 12 May 2016 following the amalgamation of the former Conargo Shire Council and Deniliquin Council. Edward River Council has approximately 9,000 permanent residents across 8,881 square kilometres. The LGA includes the town of Deniliquin and rural villages of Blighty, Boorooban, Conargo, Mayrung, Pretty Pine and Wanganella

1.5 Mapping

The planning proposal includes mapping for the 'Deferred Matter' area showing the proposed changes to the relevant land zoning, flood planning and possibly terrestrial biodiversity maps, for the area shown in **Figures 2 to 5** above, which are suitable for community consultation.

The planning proposal does not include maps showing the existing zoning and proposed zoning for the community recreation areas / halls. **Table 4** and **Figure 6** above describes shows the intended zone change. This is adequate for community consultation purposes. The final LEP maps will be required prior to finalisation.

2 Need for the planning proposal

This planning proposal is required to consolidate the three (3) current LEPs into a single ERLEP. A consolidated LEP is needed to provide a continuity of planning controls across the LGA and will provide for an integrated document that will guide sustainable development of the Edward River LGA. It is needed to enable a single LEP for Edward River LGA that provides a consistent approach to planning and development.

A planning proposal is the only way to consolidate the LEPs.

3 Strategic assessment

3.1 Regional Plan

Consolidation of the LEPs is generally consistent with the Riverina Murray Regional Plan 2036 and the draft Riverina Murray Regional Plan 2041. The planning proposal is primarily administrative in nature and forms the basis for Council to be able to develop further land use strategies across the LGA and better align with the Regional Plan goals and objectives.

3.2 Local

The planning proposal is generally consistent with the Edward River LSPS. The consolidation of the LEP's will align with the principles and objectives of the LSPS by providing a consistent application of land use zones, uses and clauses in the Edward River LGA.

3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with all relevant section 9.1 Ministerial Directions however where there are inconsistencies, these are discussed in Table 5 below.

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Not applicable	The planning proposal does not reduce the conservation standards that apply to the land.

4..1 Flooding	Consistent	Land within the 'Deferred Matter' area was intended to be administered under the Deniliquin Local Environmental Plan 1997 until the Edward River at Deniliquin Flood Study November 2014 was completed. Following the completion of the flood study in 2014, the DLEP 2013 and DLEP 1997 were amended on 3 July 2020 to incorporate the results of the flood study. The planning proposal includes housekeeping rezoning amendments to reflect the current use of land and convert to Standard Instrument zoning. The planning proposal is consistent with this Direction as the proposed changes are consistent with the NSW Flood Prone land Policy, principles of the Floodplain Development Manual 2005 and does not change the existing planning controls relating to flooding. The 'Deferred Matter' area will be incorporated into the ERLEP. Consultation with Biodiversity, Conservation and Science Directorate (BCD) is recommended.
4.3 Planning for Bushfire Protection	Inconsistent	The proposed rezoning of the 'Deferred Matter' is within bushfire prone land, however the zoning change is to reflect current uses and the Standard Instrument. The inconsistency with this Direction remains at this time and consultation with NSWRFSS is recommended.
5.4 Shooting Ranges	Consistent	The land at the Pretty Pine Recreation Reserve is currently a shooting range and has been proposed to be rezoned from RU1 to RE2. There is no change to the permissibility of a shooting ranges within the proposed amendment..
6.1 Residential Zones	Consistent	The planning proposal includes housekeeping rezoning amendments to reflect the current use of land and maintains housing opportunities. The delegate of the Secretary can be satisfied that the proposal is consistent with this Direction.
7.1 Business and Industrial Zones	Consistent	The 'Deferred Matter' is proposed to be rezoned from Urban Zone to B6 (E3) zone to be consistent with the Standard Instrument zoning and the employment lands reforms, allowing consolidation into a single LEP. The proposal maintains the permissibility of the existing business and industrial areas.

8.1 Mining, Petroleum Production and Extractive Industries	Inconsistent	The rezoning of the 'Deferred Matter' from rural zoning has the potential to restrict mining. The rezoning is primarily to reflect current uses but consultation with Mining, Exploration and Geoscience is required to address the inconsistency.
9.1 Rural Zone	Inconsistent but justified	The planning proposal does not change rural zoning except in the 'Deferred Matter' area and proposed rezoning of the community recreation reserves / halls as discussed above. The planning proposal is inconsistent with this Direction however the delegate of the Secretary can be satisfied that the amendments proposed are of minor significance to reflect current use.
9.2 Rural Lands	Inconsistent	The planning proposal proposes various housekeeping land use changes with some being prohibited particularly in the CLEP 2013 area which may impact the rural lands. The planning proposal is inconsistent with this Direction at this time and Council will need to address this after community consultation and prior to finalisation.

3.4 State environmental planning policies (SEPPs)

The planning proposal is generally consistent with all relevant SEPPs also noting that the new SEPPs came into force on 1 March 2022.

SEPP (Exempt and Complying Development) Code 2008 – In Schedule 2 of Advertisements and advertising structures, Real estate signs and Signs behind glass line of shop windows are classified as exempt development in the Conargo LEP 2013. These exemptions are inconsistent with this SEPP and have been proposed to be removed in the new ERLEP.

4 Site-specific assessment

4.1 Environmental

The planning proposal is not expected to adversely affect critical habitat, threatened species, populations or ecological communities or their habitats.

The planning proposal is primarily administrative and the changes to planning controls and provisions is expected to have limited effect on any specific environmental impacts that may arise.

The 'Deferred Matter' area is affected by flood prone land which has been considered in the proposed new zones, with the incorporation of C3 Environmental Management and RE2 Private Recreation zones towards the edge of the subject land to minimise potential for flood impacts. The flood provisions in the current LEPs will also be carried over into the ERLEP. Consultation with BCD will be required in this regard.

The proposed rezoning of community recreational areas/halls will reflect the current land use of the sites.

4.2 Social and economic

The planning proposal is not expected to result in negative social or economic impacts. The consolidation of three LEPs into one LEP will assist in providing greater certainty to landowners, developers, community and Council around planning controls and permissibility for development within the LGA.

4.3 Infrastructure

The planning proposal is unlikely to create significant additional demand for public infrastructure given it will not result in likely changes to development potential and consistent with current land uses.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate , and forms a condition of the Gateway determination.

5.2 Agencies

It is recommended that the following agencies to be consulted:

- Regional NSW - Mining, Exploration and Geoscience to meet the requirements of section 9.1 Direction 8.1 Mining, Petroleum Production and Extractive Industries.
- DPE- BCD in relation to section 9.1 Direction 4.1 Flooding
- NSW Rural Fire Service in relation to section 9.1 Direction 4.3 Planning for Bushfire Protection

6 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The Department supports a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council does not request plan making delegation. Given the amendment is an LEP consolidation and will be a principal LEP Council cannot exercise plan making delegations.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- This planning proposal seeks to consolidate the three LEPs currently administering the Edward River LGA (DLEP 2013, DLEP 1997 and CLEP 2013) to create a consolidated and clear planning framework under a single ERLEP. The planning proposal is consistent with the Standard Instrument LEP and a conditional Gateway determination is recommended to allow for the LEP consolidation process to proceed.

The planning proposal should be updated to:

- Include an amended timetable which shows updated dates for key milestones and an expected end-to-end timeframe of 12 months.
- Prior to exhibition update the planning proposal to address land use issues raised in section 1.3, page 7 above in relation to zone RU1 Primary Production
- Identify matters that are to be transferred for the 'Deferred Matter' area from DLEP 1997 to ERLEP.
- Prior to finalisation address inconsistencies with section 9.1 Directions 4.3 and 8.1
- Include Employment Zones reform land use tables

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistency with section 9.1 Direction 9.1 Rural Zones is minor and justified and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection, 8.1 Mining, Petroleum Production and Extractive Industries and 9.2 Rural Zones are unresolved at this time and will require justification prior to finalisation.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be amended to include the following:
 - identify that where land is affected by proposed land use change all landowners are to be notified.
 - an amended timetable which shows updated dates for key milestones and an expected end-to-end timeframe of 12 months.
 - include the Department's Employment Zones reform – land use tables.
 - identify matters from Deniliquin LEP 1997 that relate to the 'Deferred Matter' area that are to be transferred to the new Edward River LEP.
 - clarify the proposed permissibility for zone RU1 Primary Production in relation to light industries, high technology industries and vehicle body repair workshops.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as principal as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal 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 Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2022).

3. Consultation is required with the following government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
 - Regional NSW - Mining, Exploration and Geoscience to meet the requirements of section 9.1 Direction 8.1 Mining, Petroleum Production and Extractive Industries.
 - NSW Rural Fire Service for Direction 4.3 Planning for Bushfire Protection
 - Department of Planning and Environment Biodiversity, Conservation and Science Directorate in relation to flooding.
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 Act. 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 LEP should be completed on or before 12 months after the Gateway determination date.
6. The Council as planning proposal authority is not authorised to exercise the functions of the local plan-making authority under section 3.36(2) given the amendment is an LEP consolidation and will be a principal LEP Council cannot exercise plan making delegations.



(Signature)

7 October 2022 (Date)

Wayne Garnsey
Manager, Western Region



(Signature)

21 October 2022 (Date)

Garry Hopkins
Director, Western Region

Assessment officer

Ethan Hyde
Planning Support Officer, Western Region
0258526800