

Tenterfield LEP 2013 - Amendment No 5 - Tenterfield Heavy Vehicle Bypass

Proposal Title : **Tenterfield LEP 2013 - Amendment No 5 - Tenterfield Heavy Vehicle Bypass**

Proposal Summary : **The purpose of the Planning Proposal is to rezone land from RU1 Primary Production and RU5 Village to SP2 Infrastructure 'classified road' for the purpose of a Heavy Vehicle Bypass (HVB) and to identify the land on the LEP Land Reservation Acquisition Map. To facilitate the proposal the SP2 Infrastructure Zone will also need to be inserted into the landuse tables of Tenterfield LEP 2013.**

PP Number : **PP_2015_TENTE_001_00** Dop File No : **15/11938**

Proposal Details

Date Planning Proposal Received : **28-Sep-2015** LGA covered : **Tenterfield**

Region : **Northern** RPA : **Tenterfield Shire Council**

State Electorate : **NORTHERN TABLELANDS** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **Land identified within the Tenterfield Heavy Vehicle Bypass corridor in the mapping accompanying the Planning Proposal**

DoP Planning Officer Contact Details

Contact Name : **Gina Davis**

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RPA Contact Details

Contact Name : **Tamai Davidson**

Contact Number : **0267366015**

Contact Email : **t.davidson@tenterfield.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **N/A** Consistent with Strategy : **N/A**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

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

Comment : **The objectives and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to Tenterfield LEP 2013.**

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

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

Comment : **The Planning Proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

2.3 Heritage Conservation

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 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP (Infrastructure) 2007**

e) List any other matters that need to be considered : **The New England North West Strategic Regional Land Use Plan applies to the Tenterfield LGA**

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Refer to discussion below regarding section 117 Directions**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Mapping showing the land to which the proposed SP2 Zone will apply is included in the Planning Proposal and is considered adequate for public exhibition purposes. For community consultation purposes, the RPA should also include mapping that identifies land that will be identified on the Land Reservation Acquisition Map.**

Mapping prepared in accordance with the Department's technical mapping guidelines will also be required before a Parliamentary Counsel opinion for this proposal could be sought.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The relevant planning authority has identified a 28 day exhibition period for the proposal. Due to the nature of the Planning Proposal, and the number of properties it will affect, it is considered that a 28 day notification period is appropriate. It is recommended that Part 5 of the Planning Proposal also be amended to include notification of the proposal on the RPA's webpage.**

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 : **The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:**
1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program; and
5. Providing a project time line.

The RPA is seeking an authorisation to exercise its plan making delegations. While the Planning Proposal is dealing with a regionally significant infrastructure project, due to the significant work already undertaken by the Roads and Maritime Services, in consultation with the community and the Office of Environment and Heritage, it is considered reasonable that an authorisation to exercise its plan making delegations be issued to Council.

The RPA has provided a project time line which estimates that the LEP will be ready for submission to the Department for finalisation in February 2016. To ensure an adequate period to allow finalisation of this matter, a 9 month time frame is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Tenterfield LEP 2013 was made in April 2013.

Assessment Criteria

Need for planning
proposal :

The planning proposal aims to rezone land from RU1 Primary Production and RU5 Village to SP2 Infrastructure 'classified road'. The purpose of the SP2 Zone in this instance is to identify and reserve land that has been identified by Roads and Maritime Services (RMS) as the preferred route for a heavy vehicle bypass for Tenterfield. Currently, the existing New England Highway is the main street (Rouse Street) of Tenterfield and this causes extensive traffic and road safety issues.

The preferred route was identified by the RMS in the 'New England Highway Tenterfield Heavy Vehicle Bypass - Preferred Route Report - March 2015'. During discussions between the RPA and RMS, it was recommended that the RPA initiate the process of an amendment to Tenterfield LEP 2013 for the purpose of identifying and rezoning land that will eventually be acquired by the RMS for the heavy vehicle bypass. At this time however, no funding or timeframe has been provided for further planning or construction of the bypass. The RMS have however confirmed in writing to the Department that they are satisfied for the proposal to proceed at this time to rezone the land and identify them as the relevant acquisition authority. It is considered appropriate however that Council undertake formal consultation with the RMS during the consultation phase of the to confirm this position.

The RMS 'New England Highway Tenterfield Heavy Vehicle Bypass - Preferred Route Report - March 2015' investigated four (4) corridor options with all options assessed in regards to geotechnical issues, ecology and diversity, Aboriginal and Non-Aboriginal heritage, noise modelling, visual impact assessment and indicative land acquisition requirements as well as community feedback.

The preferred route was eventually chosen based on the following factors:

- * the route starts and ends close to the town centre making it more likely to encourage light vehicles to travel to the centre of town;
- * has the least environmental impact by avoiding the Currys Gap State Conservation Area;
- * will have no direct impact on heritage areas;
- * provides the best value for money;
- * minimises private land acquisition; and
- * provides a western vista of the town, highlighting the Railway Museum complex and other parts of Tenterfield not currently seen from the existing highway.

The proposal notes that further extensive environmental work based on the above factors will be required at the Environmental Assessment stage of the project in regards to the potential impact of the proposed route before the bypass moves towards the construction phase.

RMS consultation on the bypass also confirmed that the selected alignment is the preferred option of the community and Council.

Consistency with strategic planning framework :

The Planning Proposal is considered to be consistent with the New England North West Strategic Regional Land Use Plan. The RPA currently does not have a local growth management strategy approved by the Secretary.

The proposal is considered to be consistent with relevant SEPPs except in relation to the following:

SEPP (Rural Lands) 2008

The proposal is considered to be inconsistent with a number of the Rural Planning Principles contained in the SEPP (Rural Lands) 2008. This inconsistency is considered to be of minor significance due to the relatively minor quantity of rural land affected by the bypass corridor and the positive social and economic benefits that will result from the proposal.

SEPP 44 - Koala Habitat Protection

A Preliminary Biological Impacts Report conducted on behalf of RMS has revealed habitat within the preferred route that may be conducive to the occurrence of Koalas. Whilst sightings have previously been recorded on land within the subject footprint, none were sighted during preliminary surveys. It is anticipated that more detailed work on the presence of Koalas and Koala habitat in accordance with SEPP 44 will be conducted during the environmental assessment stage prior to construction commencing. This matter can be adequately considered and addressed fully at that stage and is considered satisfactory.

SEPP 55 - Remediation of Land

Council have indicated that certain parcels of land within the preferred route may be potentially contaminated. Considering the proposed future use of the land, this issue is considered to be of minor significance, particularly as it is understood that more detailed work on potential contamination land will be undertaken during the environmental assessment stage prior to construction commencing.

The RPA have highlighted a number of s117 Directions as being applicable to the proposal. It is considered that a number of other s117 Directions not identified are also applicable. In this regard, the proposal is considered to be consistent with all relevant s117 Directions except in relation to the following:

1.3 Mining, Petroleum Production and Extractive Industries

The proposal is considered to be inconsistent with the Direction as mining and extractive industries will be prohibited in the SP2 Infrastructure Zone under Tenterfield LEP 2013. This inconsistency is considered to be of minor significance as the NSW DPI Resource Audit Maps show no existing or potential resources in this locality and due to the relatively small area of land involved.

1.5 Rural Zones

The proposal is inconsistent with this Direction draft LEP as it is not consistent with a number of the Rural Planning Principles contained in the SEPP (Rural Lands) 2008. This inconsistency is considered to be of minor significance due to the relatively minor quantity of rural land affected by the bypass corridor and the positive social and economic benefits that will result from the proposal.

2.1 Environment Protection Zones

The proposal is inconsistent with this Direction as it affects land currently identified on the Sensitive Lands Map in Tenterfield LEP 2013. This inconsistency is considered to be of minor significance as the 'Sensitive Lands' provisions of Tenterfield LEP 2013 will continue to apply and as it is understood that further detailed work on any potential environmental impacts will be undertaken during the environmental assessment stage prior to construction commencing. It is also noted that the Office of Environment and Heritage have provided comments to the RMS on the preferred bypass corridor in May 2015 and confirmed that they raise no objection to the proposal subject to further detail assessment being undertaken prior to construction commencing.

2.3 Heritage Conservation

The proposal is inconsistent with this Direction as a number of heritage items are in proximity of the bypass corridor and as the RMS preliminary work has identified an Aboriginal grinding groove site within the corridor. This inconsistency is considered to be of minor significance as it is understood that further detailed work on any potential heritage impacts will be undertaken during the environmental assessment stage prior to construction commencing. It is also noted that the Office of Environment and Heritage have provided comments to the RMS on the preferred bypass corridor in May 2015 and confirmed that they raise no objection to the proposal subject to further detail assessment being undertaken prior to construction commencing.

3.2 Caravan Parks and Manufactured Homes Estate

The proposal is considered to be inconsistent with the Direction as caravan parks will be prohibited in the SP2 Infrastructure Zone under Tenterfield LEP 2013. This inconsistency is considered to be of minor significance due to the relatively small area of land involved.

4.3 Flood Prone land

The proposal is inconsistent with this Direction as it affects flood prone land and will require engineering solutions in the form of two bridges where the preferred route crosses 2 major creeks. This inconsistency is considered to be of minor significance as the flood planning provisions of the Tenterfield LEP 2013 will continue to apply and as it is understood that further detailed work on any potential flooding impacts will be undertaken during the environmental assessment stage prior to construction commencing. It is also noted that the Office of Environment and Heritage have provided comments to the RMS on the preferred bypass corridor in May 2015 and confirmed that they raise no objection to the proposal subject to further detail assessment being undertaken prior to construction commencing.

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal will affect land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

6.2 Reserving Land for Public Purposes

The proposal is inconsistent with this Direction as it applies a zone for public purposes and creates a land reservation without the approval of the Secretary of the Department of Planning and Environment. This inconsistency is considered to be of minor significance as the RMS have confirmed that they raise no objection to being the nominated acquisition authority and that the zoning is required to identify and reserve this important transport corridor.

Environmental social
economic impacts :

Preliminary assessments were undertaken by the RMS to aid in the determination of the preferred route for the Tenterfield heavy vehicle bypass. The route chosen was based on factors that aimed to minimise the potential impacts on identified endangered vegetation communities and threatened flora and fauna as well as Aboriginal and Non-Aboriginal heritage items. The potential for detrimental impacts to occur however still exists and must be investigated fully during the planning assessment phase of the project as advised within the Planning Proposal.

Some concerns have been raised in relation to the economic impact that the bypass will have on businesses within Tenterfield due to the loss of passing trade. The chosen route was selected in part due to its proximity to the existing town centre to minimise any loss of passing trade. The RMS has also identified that Council and the local business association can help address any economic issues through the preparation of an appropriate destination strategy for Tenterfield.

While some loss of travelling trade may occur, the overall social and economic impact for the community and regional freight movement efficiency resulting from the heavy vehicle bypass is considered to be beneficial overall.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

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

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Referral to the Office of Environment and Heritage is not considered warranted due to the comments they have already provided directly to RMS on the proposal in May 2015.**

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

While a number of studies will be required to support the construction of the bypass, it is considered that sufficient preliminary work to support the rezoning has been completed and that these further studies can be undertaken during the environment assessment stage prior to construction.

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
Tenterfield PP cover Letter.pdf	Proposal Covering Letter	Yes
Tenterfield_Council Report&Resolution.pdf	Proposal	Yes
Planning Proposal.docx	Proposal	Yes
Planning Proposal_117 Directions assessment.docx	Proposal	Yes
Planning Proposal_SEPP assessment table.docx	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands
2.3 Heritage Conservation
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
6.2 Reserving Land for Public Purposes**

Additional Information : **It is recommended that:**

1. The Planning Proposal be supported;
2. The Planning Proposal be exhibited for 28 days;
3. The Planning Proposal be completed within 9 months;
4. Prior to public exhibition, the planning proposal should be amended to;
 - include mapping illustrating the land that will be identified on the Land Reservation Acquisition Map; and
 - amend Part 5 Community Consultation to include notification on Council's website;
5. That the Secretary (or her delegate) approved the inconsistencies with s117 Directions 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.2 Caravan Parks and Manufactured Home Estates, 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes;
6. That the Secretary (or her delegate) note the current inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection and that this inconsistency will need to be resolved prior to the proposal being finalised;
7. That the RPA consult with the following agencies:
 - NSW Rural Fire Service; and
 - NSW Roads and Maritime Services; and
8. That an authorisation to exercise delegation be issued to Council.

Supporting Reasons : The Planning Proposal aims to rezone land currently zoned RU1 Primary Production and R5 Village to SP2 Infrastructure 'classified road' for the purpose of identifying and reserving land for the Tenterfield heavy vehicle bypass.

Rezoning of the land will help identify and reserve the land for its future intended purpose and to provide certainty to affected landholders. It will also allow for additional investigations regarding the potential environmental, social, aesthetic and economic impact of the proposal to be undertaken. The benefits that it will provide to the CBD of Tenterfield in regards to traffic congestion and safety will also be beneficial to the community as a whole.

Signature:



Printed Name:

Craig Diss

Date:

2 October 2015