

Tenterfield LEP 2013 Amendment No 1 - Rural Boundary Adjustment Clause for the RU1 Primary Production Zone

Proposal Title :	Tenterfield LEP 2013 Amendment No 1 - Rural Boundary Adjustment Clause for the RU1 Primary Production Zone		
Proposal Summary :	Council is seeking to amend Tenterfield LEP 2013 by inserting a rural boundary adjustment clause that will allow for greater subdivision flexibility in the RU1 Primary Production Zone.		
PP Number :	PP_2013_TENTE_001_00	Dop File No :	13/11456

Proposal Details

Date Planning Proposal Received :	08-Jul-2013	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 :	All land zoned RU1 Primary Production within Tenterfield LEP 2013		

DoP Planning Officer Contact Details

Contact Name :	Gina Davis
Contact Number :	0267019687
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RPA Contact Details

Contact Name :	Tamai Davidson
Contact Number :	0267302360
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 :	Yes

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Primary Production Zone**

MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

The Department of Planning and Infrastructure'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.

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? **No**

b) S.117 directions identified by RPA :

1.5 Rural Lands

* May need the Director General's agreement

4.4 Planning for Bushfire Protection

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

N/A

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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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

The Planning Proposal relates to the insertion of a clause into the written document only. No associated mapping is required.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The relevant planning authority has identified a 14 day exhibition period for the proposal. The Planning Proposal is considered to be a 'low impact' proposal and the proposed notification period is considered to be satisfactory.

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.**

Council is seeking an authorisation to exercise its plan making delegations. As the Planning Proposal deals with matters of only local significance, it is considered appropriate 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 October 2013. The submitted project time line is considered as reasonable and a 6 month time frame for completion of the proposal is recommended. It is noted that a revised project time line (that addresses the additional steps to be completed by Council if an authorisation to exercise delegation is issued) will need to be included in the Planning Proposal prior to public exhibition.

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 proposal to amend the LEP and introduce an additional provision for subdivision of rural land is not the subject of a specific strategic study or report.

Insertion of the subject clause would enable boundary adjustments in rural areas where one or more allotments will be less than 90% of the Minimum Lot Size (MLS) provided:
- no additional lots or opportunities for additional dwellings will be created; and
- there is no increase potential for land use conflict.

Subdivisions of this type were previously permissible with consent under the provisions of Tenterfield LEP 1996.

Given that boundary adjustments have been a historically common form of subdivision in rural areas, the insertion of a clause that would allow such a proposal with consent has the potential to provide for greater flexibility in agricultural practices and farm adjustments, and in improved agricultural and/or environmental outcomes. It is noted that both Lismore (2013_LISMO_004_00) and Ballina (2013_BALLI_001_00) Councils have recently obtained Gateway Determinations to amend their respective LEPs to allow for subdivisions of a similar nature.

Council has drafted a potential clause for insertion into Tenterfield LEP 2013. The clause has been designed to;

- * reflect the existing planning framework under the former Tenterfield LEP 1996;**
- * provide greater flexibility for merit based consideration of subdivision proposals under the new LEP; and**
- * specifically define the circumstances where a consent authority is able to consider exceptions to the subdivision framework established by the Standard Instrument LEP.**

It is suggested that Council amend the Planning Proposal however to include only a plain English explanation of the intention of the clause for exhibition. The drafting of the clause can then be conducted by Parliamentary Counsel's Office to ensure it properly achieves the purposes outlined.

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Consistency with
strategic planning
framework :

Whilst no Regional Strategies apply to the Tenterfield LGA, the New England North West Strategic Regional Land Use Plan does apply. The Planning Proposal is considered to be consistent with the provisions of the Regional Land Use Plan.

The Planning Proposal has been identified as being consistent with all applicable SEPPs and section 117 Directions.

Whilst Council have not identified any SEPP's or s117 Directions as being applicable to the Planning Proposal, it is important to note the following as being applicable;

S117 Direction 4.4 Planning for Bushfire Protection

This Direction is relevant to the proposal to as it will introduce an additional subdivision provision to the LEP which will apply throughout the rural areas of the LGA. As the proposal will apply across the LGA, it can be assumed that some of the land within Tenterfield LGA is bush fire prone. 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.

SEPP (Rural Lands) 2008

This SEPP is relevant to the Planning Proposal as it contains principles for subdivision of rural land.

It is considered that the proposed provisions will not be inconsistent with the Rural Subdivision Principles or Rural Planning Principles of the SEPP (Rural Lands) 2008 as the provisions will;

1. Not contribute to the unnecessary fragmentation of rural land as no additional lots are to be created;
2. Require consideration of potential land use conflict with surrounding land uses (such as agriculture) land prior to the subdivision being approved;
3. Not create additional opportunities for dwellings in rural zones.

The proposal is considered to be otherwise consistent with other applicable section 117 Directions and SEPPs.

Environmental social
economic impacts :

No significant adverse environmental, social or economic impact has been identified as resulting from the proposal.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
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Timeframe to make LEP :	6 months	Delegation :	RPA
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Public Authority Consultation - 56(2) (d) :	NSW Rural Fire Service
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Is Public Hearing by the PAC required?	No
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(2)(a) Should the matter proceed ?	Yes
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If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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
Cover letter.pdf	Proposal Covering Letter	No
PP_2013_1_Planning Proposal.pdf	Proposal	No
Eval Criteria.pdf	Proposal	No
Info Checklist.pdf	Proposal	No

Planning Team Recommendation

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

S.117 directions: **1.5 Rural Lands**
 4.4 Planning for Bushfire Protection

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

- 1. The Planning Proposal be supported;**
- 2. The Planning Proposal be exhibited for 14 days;**
- 3. The Planning Proposal be completed within 6 months;**
- 4. That the RPA consult with the Commissioner of the NSW Rural Fire Services in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection;**
- 5. That the Planning Proposal be amended prior to exhibition so that it only contains a plain English explanation of the intent of the proposed clause;**
- 6. That an authorisation to exercise delegation be issued to Council; and**
- 7. That a revised project time line (that addresses the additional steps to be completed by Council due to an authorisation to exercise delegation being issued) be included in the Planning Proposal prior to public exhibition.**

Supporting Reasons : **The Planning Proposal will insert a provision into Tenterfield LEP 2013 that will create greater flexibility with respect to the subdivision of rural land whilst reinstating a provision that existed under the provisions of the former Tenterfield LEP 1996.**

Signature: _____

Printed Name: _____

Eraig Diss

Date: _____

11/7/13