**Planning Proposal 2017-01**

This is a Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979,* in relation to a proposed amendment to *Tenterfield Local Environmental Plan 2013.* It will be assessed by Tenterfield Shire Council, the NSW Department of Planning and Environment, and used for public participation on the proposed LEP amendment.

**Background**

**Proposal** To amend *Tenterfield Local Environmental Plan 2013* by removing the RU3 Forestry Zone and converting all existing RU3 Zoned land to RU1 Primary Production.

**Property Details** The Planning Proposal applies to all land within the Tenterfield Local Government Area zoned as RU3 Forestry.

**Applicant Details** Tenterfield Shire Council

**Land owner** Multiple

**Brief history** Planning Proposal 2017-01 has been prepared to make amendments to Tenterfield LEP 2013 by the removal of the RU3 Forestry zone and conversion of all that land to RU1 Primary Production. Council is aware that there are land parcels which are now held in freehold title and are zoned RU3 Forestry and approximately 50 Perpetual Leases with State Forest dedication over them are affected by the zoning.

**Part 1 – Objectives or Intended Outcomes**

The objective of this planning proposal is to make alterations to Tenterfield LEP 2013 through the removal of the RU3 Forestry Zone and converting all of that land to RU1 Primary Production zone.

**Part 2 – Explanations of Provisions**

The proposed outcome will be achieved by:

* Amending Tenterfield LEP 2013 through the removal of the RU3 Forestry Zone and rezoning this land to RU1 Primary Production.

**Part 3 – Justification**

**Section A – Need for the planning proposal**

1. **Is the planning proposal a result of any strategic study or report?**

The planning proposal is not the result of any strategic study or report. It is noted that during the Standard Instrument process, Council undertook the conversion process option from the Tenterfield LEP 1996 to the current Tenterfield LEP 2013. Therefore the option of reviewing this matter at that time was not considered.

1. **Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Amending Tenterfield Local Environmental Plan 2013 is the only way to achieve the objectives of the planning proposal.

**Section B – Relationship to strategic planning framework**

1. **Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?**

The planning proposal is does not directly relate to the *New England North West Strategic Regional Action Plan 2012.*

1. **Is the planning proposal consistent with the local council’s community plan or other local strategic plan?**

Council’s adopted Community Strategic Plan (2017-2027) sets out under Goal Envo 9 “Land use planning provisions support and promote sustainable land use and management in the Shire.” It has been brought to Council’s attention that there are parcels of land which are held in freehold title (evidenced by copies of Title documents) which are zoned as RU3 Forestry and as such the RU3 Forestry zoning table in Tenterfield LEP 2013 places restrictions for future development.

1. **Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The planning proposal is consistent with all applicable state environmental planning policies.

1. **Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The planning proposal is consistent with section 117 directions.

**Section C – Environmental, social and economic impact**

1. **Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

Some areas of RU3 Forestry zoned land, and RU1 Primary Production land are subject to the provisions of the State Heritage Act, with the land identified as containing High Conservation Value Old Growth Forest. Information from the Office of Environment and Heritage indicates that the ‘Category’ for the item is “Fauna habitat.’ High Conservation Value Old Growth Forest covers a vast area across 15 Local Government Areas in Upper North East NSW.

Any future development on the land under the proposed RU1 Primary Production zone is subject to the requirements and provisions for assessment under the *Environmental Planning & Assessment Act, 1979* and would be assessed on its merits at the time of lodgement of any future application for development requiring consent.

It is understood that the heritage listing was intended for sections of State Forests, National Park and Nature Reserve as evidenced by the notation on the listing Owner – State Government. The freehold landowner and NSW Farmers are currently in discussion with the Office of Environment & Heritage to amend the listing to remove the listing from all freehold land affected across the 15 local government areas.

1. **Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Sections of the existing RU3 Forestry zoned land are subject to the provisions of the State Heritage Act, with the land identified as containing High Conservation Value Old Growth Forest.

1. **Has the planning proposal adequately addressed any social and economic effects?**

Removal of the RU3 Forestry zone and replacing it with the RU1 Primary Production zone will allow for an ‘opening up’ of existing forestry zoned land, to permit the lodgement of Development Applications for forms of development which were previously restricted.

However this will restore the pre-existing rights of title that were inadvertently changed as a result of the adoption of the LEP template.

**Section D – State and Commonwealth interests**

1. **Is there adequate public infrastructure for the planning proposal?**

The planning proposal does not create the need for any additional public infrastructure.

1. **What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Whilst no views of public authorities were sought at this stage, Council received correspondence from the Forestry Corporation of NSW (21/7/17) indicating they had been made aware, through media, of Council’s consideration of the Planning Proposal. Forestry have raised concerns that the decision to rezone land from RU3 Forestry to RU1 Primary Production was made with no prior consultation with the land owner. Forestry have indicated that they will assist Council with any amendment to correct the RU3 zoning on private land. Forestry does not support the change in zoning for dedicated State Forest from RU3 to RU1.

At this point, it is Council’s preference to rezone all RU3 Forestry Land to RU1 Primary Production. It is understood that rezoning the land will not remove the provision for Crown Lease Holders on land dedicated as State forest to obtain consent to undertake certain activities as per the Forestry Act 2012 and Forestry Regulation 2012, on their leasehold. Conditions which apply to leaseholders, in terms of consent for activities outside planning regulation is a matter between the owner and leaseholder, regardless of the zoning under the LEP.

It is proposed to consult further with Forestry Corporation post the Gateway Determination.

**Part 4 – Mapping**

All currently zoned RU3 Forestry land is proposed to be rezoned to RU1 Primary Production.

**Part 5 – Community Consultation**

It is anticipated that community consultation and notification will occur as part of the formal exhibition of the planning proposal or as directed through the gateway determination process.

It is proposed that there be:

* One notification of the exhibition in a locally circulating newspaper.
* One notification in Council’s Your Local News leaflet (distributed to all residents on a monthly basis)
* An exhibition period of 28 days.
* Notification on Council’s website.

**Part 6 – Project Timeline**

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| **Task** | **Anticipated timeframe** |
| Date of Gateway Determination |  End July 2017 |
| Completion of required technical information, studies  | Unknown – as determined by Gateway – following timeframes may require adjustment |
| Government agency consultation (pre exhibition as required by Gateway Determination) | End September 2017 |
| Any changes made to Planning Proposal resulting from technical studies and government agency consultations. Resubmit altered Planning Proposal to Gateway panel. Revised Gateway determination issued, if required. | October 2017 |
| Commencement and completion dates for public exhibition.  | October-November 2017 |
| Post exhibition review - Consideration of submissions, report Planning Proposal post exhibition  | December 2017 |
| Council request a draft instrument is prepared under Section 59(1) of the Act – directly to Parliamentary Counsel (concurrent notification to Department of Planning and Environment) | January 2018 |
| Opinion issued by Parliamentary Counsel that the plan can be made  | March 2018 |
| Council resolves to adopt and make the draft LEP and notifies the Department of Planning and Environment who arrange for the plan to be notified on the NSW Government legislation website  | April 2018 |
| The plan comes into force on the day the LEP is published on the NSW legislation website | May 2018 |

**Conclusion**

The planning proposal is considered to be consistent with relevant statutory and policy provisions and seeks to rezone all existing RU3 Forestry land to RU1 Primary Production.

**Contact Details**

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