



Tenterfield Shire Council PLANNING PROPOSAL 2021-01 Heritage Amendment



Declaration

Document name: Planning Proposal 2021-01 Tenterfield Shire Heritage Amendment
Document Author: Tamai Davidson.
Occupation of document author: Manager Planning and Development Services Tenterfield Shire Council.

Qualifications of document author: Bachelor Urban & Regional Planning, UNE

Declaration: I, Tamai Davidson declare that this Planning Proposal constitutes a planning proposal for the purposes of section 3.33 of the Environmental Planning and Assessment Act 1979 (the Act) and further declare that the document complies with the relevant provisions of the Environmental Planning and Assessment Act 1979 and the Department of Planning and Environment's *A guide to preparing planning proposals* (August 2016).

Date: 27 April 2021

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| Document History and Version Control | | | | |
|--------------------------------------|-------------|-------------|------------------|--|
| Version | Prepared by | Reviewed by | Date | Brief Description |
| 1.0 | T. Davidson | D. Wray | 24 February 2021 | Draft Planning Proposal adopted by Council on 24 February 2021. Submitted for Gateway assessment on 18 March 2021. |
| 1.1 | T. Davidson | D. Wray | 27 April 2021 | Updated with Item Numbers, and additional information as requested by letter from DPIE for Gateway determination. April 2021 |
| 1.2 | | | | |
| 1.3 | | | | |

Planning Proposal 2021-01

This is a Planning Proposal prepared under section 3.33, Division 3.4 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.

Council considered the Draft Planning Proposal on 24 February 2021 and resolved as follows

19/21 **Resolved** that Council endorses the Planning Proposal contained in Attachment 10 (Attachment Booklet 3) and forwards it to the Department of Planning & Environment, requesting a Gateway Determination under the provisions of Section 3.33 of Division 3.4 of the *Environmental Planning & Assessment Act, 1979*.

(Michael Petrie/Tom Peters)

Motion Carried Unanimously

Recording of the Vote (Planning Issue)

- Voting for the Motion: Mayor Petty, Deputy Mayor Sauer, Councillors M Petrie, B Rogan, B Murray, G Verri, B Petrie, D Forbes, J Macnish, T Peters

Background

| | |
|-------------------------|--|
| Proposal | To amend <i>Tenterfield Local Environmental Plan 2013</i> by placing additional items of environmental heritage in Schedule 5 of <i>Tenterfield LEP 2013</i> . |
| Property Details | The Planning Proposal applies to specific land within the Tenterfield Local Government Area zoned RU5 Village and RU1 Primary Production as follows: |
| Applicant | Tenterfield Shire Council. |
| Land owners | Various Private Owners and Crown Land |
| Brief history | Planning Proposal 2021-01 has been prepared to make an amendment to Tenterfield LEP 2013 by adding items to Schedule 5 of the LEP. The Planning Proposal includes items that owners have requested to be placed on Schedule 5, along with publicly owned items considered to be of significance to the community. Items have been assessed as meeting the criteria for listing as detailed in the attached Heritage Inventory Forms. |

Part 1 – Objectives or Intended Outcomes

The objective of this planning proposal is to amend Tenterfield LEP 2013 by the addition of 7 items in Schedule 5 Environmental Heritage.

Table 1
Proposed Additional Items to be inserted in Schedule 5.

| | Locality | Name of Item | Address | Property Description | Significance | Proposed Item Number |
|---|-------------------|---|--|--|---------------------|-----------------------------|
| 1 | Liston | St John the Baptist Church including original movable fittings and lights | 5119 Mount Lindesay Road, Liston | Lot 7, Section 13, DP 758616 | Local | I139 |
| 2 | Mole River | 'Trenayr' Farm Building Complex & Tobacco Barns | 2021 Mole River Road, Mole River | Lot 10 DP751508 & Lot 70 DP 705816 | Local | I140 |
| 3 | Tenterfield | Pin Oak Trees, Town Entries: Clarence & Cowper Streets | Clarence Street Bruxner Highway | Road Reserves of Clarence Street and Cowper Streets | Local | I141 |
| 4 | Tenterfield | House 'Tallula' | 92 Duncan Street | Lot 8 DP 711846 | Local | I142 |
| 5 | Torrington | All Saints Church Torrington including Bell, Interior Fabric and moveable items | 2735 Torrington Road | Lot 328 DP 751488 | Local | I143 |
| 6 | Willsons Downfall | Cemetery | Off Mount Lindesay Road, Willsons Downfall | Lots 7008 & 7009 DP 1055391 Lot 1 DP 161580 Lot 1 DP 668360 Lot 7003 DP 1032092 | Local | I144 |
| 7 | Timbarra | Survey Tree | Cnr Timbarra Road & Tablelands Road | Road Reserve adjacent to Lot 47 DP 751496 | Local | I145 |

Part 2 – Explanations of Provisions

The proposed outcome will be achieved by:

- Amending the Tenterfield LEP 2013 by adding items to Schedule 5 and making amendments to the Heritage LEP Map.

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 a shire-wide strategic report but is consistent with the objectives of Tenterfield Heritage Strategy 2018-2021 to “*Identify heritage items in the Tenterfield Shire area and list them in the Local Environmental Plan.*”

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

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

Section B – Relationship to strategic planning framework

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

The Planning Proposal is supported by *Direction 24: Protect the region’s historic heritage assets* in the New England North West Strategic Regional Action Plan 2012.

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

The Planning Proposal is consistent with Council’s adopted Community Strategic Plan (2017-2027) which sets out under Goal Envnt 9 “Land use planning provisions support and promote sustainable land use and management in the Shire.”

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

The Planning Proposal is consistent with all applicable State Environmental Planning Policies. A consistency checklist is provided at Appendix 1.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The Planning proposal is consistent with section 9.1 directions. With regard to Planning for Bushfire Protection, the proposed listing of heritage items does not alter existing land use zonings. Existing land uses may be subject to future additions or uses which are already permissible within the broad zoning provisions and development applications may be subject to referral to the NSW RFS if they are located in an area of bushfire risk. The proposal does not create a significant alteration to current land uses or development potential.

Section C – Environmental, social and economic impact

7. 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?

The addition of items in Schedule 5 will have no impact.

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

The addition of items in Schedule 5 will have no adverse impacts. The effect of the planning proposal is to positively protect the heritage significance and values of places within the Tenterfield Shire Council area for future generations. There are no proposals which would have a negative environmental impact.

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

There are no identified negative social or economic effects identified as a result of the Planning Proposal. The Planning Proposal is aimed at protecting significant places and items for future generations through identification and careful management. This is likely to have positive social and economic impacts. Areas of high heritage values are usually synonymous with sought after places for living and tourism. .

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

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

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

No views of public authorities have been sought at this stage.

Part 4 Mapping

The following Heritage Maps of the LEP are proposed to be amended to reflect the proposed changes.

| MAP TITLE | AMENDMENT |
|-----------|-----------|
|-----------|-----------|

| | |
|--|--|
| | |
| Insert tile numbers of relevant maps to be amended | |
| HERITAGE _002 | |
| HERITAGE _003 | |
| HERITAGE _003BA | |
| HERITAGE _004 | |
| HERITAGE _007 | |

Table 2. Locations of Proposed Items

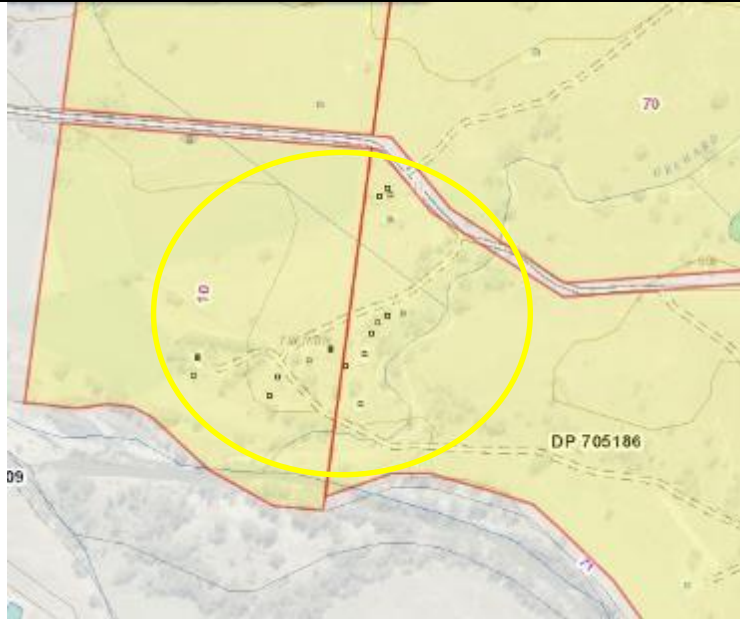
Note; the satellite photography does not align with property boundaries.

| | |
|---|---|
| <p>1. St John the Baptist Church</p> <p>I139</p> <p>5119 Mount Lindesay Road, Liston Lot 7, Section 13, DP 758616</p> |  |
|---|---|

2. 'Trenayr'
Farm Building
Complex &
Tobacco Barns.

I140




Part of Lot 10
DP751508 & Lot
70 DP 705816



Tobacco Barns and Shearing Shed



Complex of Farm Buildings

| | |
|---|---|
| <p>3. Pin Oak Trees, Town Entries:</p> <p>I141 Clarence & Cowper Streets</p> | <p>Eastern Entry Clarence Street Road Reserve between Bulwer Street to Bellevue Road.</p>  <p>Western entry Cowper Street road reserve between Western Boundary Road and Pelham Street.</p>  |
| <p>4. House 'Tallula' 92 Duncan Street Tenterfield</p> <p>I142</p> <p>Lot 8 DP 711846</p> |  |

5. All
Saints
Church,
2735
Torrington
Road
Torrington

I143



6. Willsons
Downfall
Cemetery

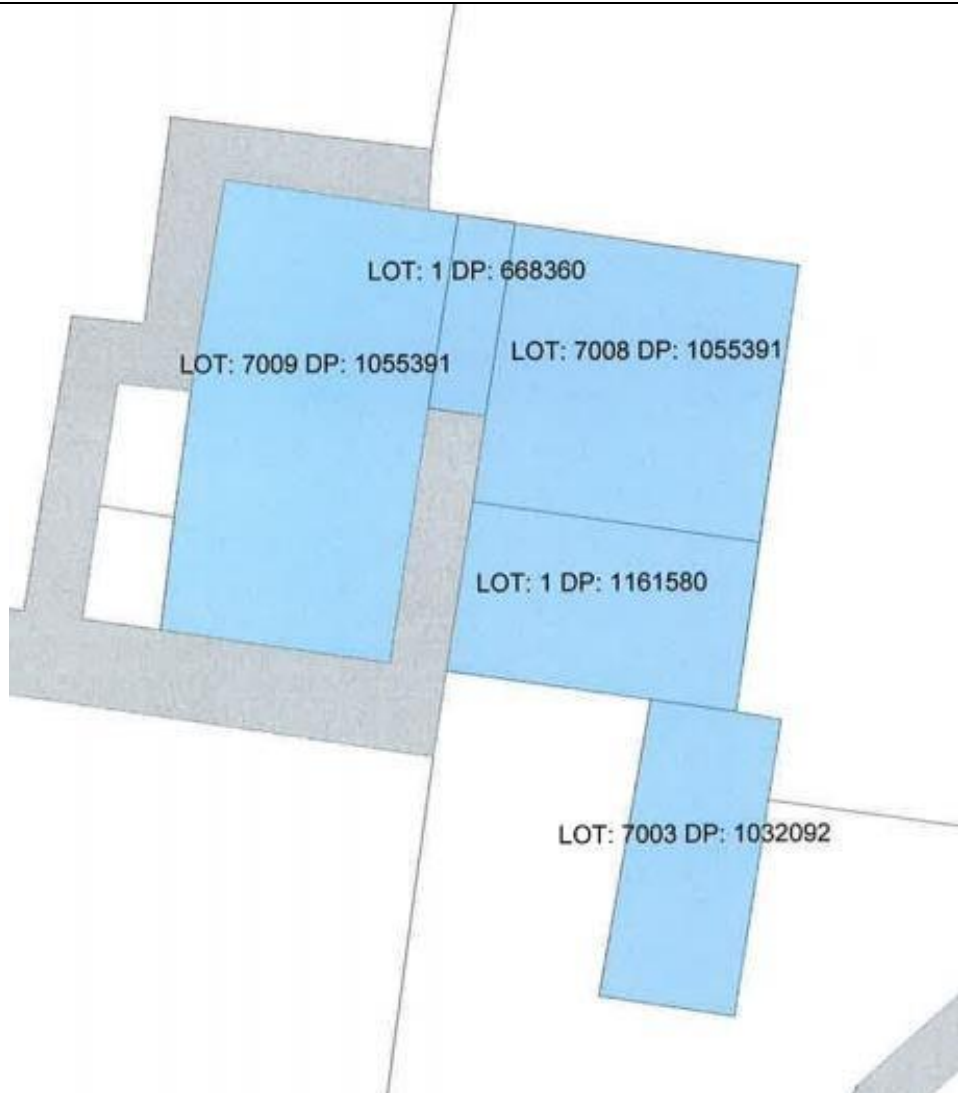
I144

Lot 1 DP
668360

Lots 7008
& 7009 DP
1055391

Lot 1 DP
1161580

Lot 7003
DP
1032092





Part 5 – Community Consultation

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 will 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 bi-monthly basis) □ An exhibition period of 28 days.
- Notification on Council’s website.
- Correspondence forwarded to all owners.

Part 6 – Project Timeline

| Task | Anticipated timeframe |
|---|------------------------------|
| Date of Gateway Determination | May 2021 |
| Completion of required technical information, studies | Completed |

| | |
|---|-----------------------|
| Government agency consultation (pre exhibition as required by Gateway Determination) | May-June 2021 |
| 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. | June 2021 |
| Commencement and completion dates for public exhibition. | July 2021 |
| Post exhibition review - Consideration of submissions, report Planning Proposal post exhibition | July/August 2021 |
| 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) | August-September 2021 |
| Opinion issued by Parliamentary Counsel that the plan can be made | September 2021 |
| 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 | October 2021 |
| The plan comes into force on the day the LEP is published on the NSW legislation website | November 2021 |

Conclusion

The planning proposal is considered to be consistent with relevant statutory and policy provisions and only seeks to amend *Tenterfield LEP 2013* through the addition of seven (7) new items to Schedule 5.

APPENDIX 1: STATE ENVIRONMENTAL PLANNING POLICY CONSISTENCY CHECKLIST

| Name of SEPP | Relevant/applicable? | Comment/statement of consistency |
|--------------|----------------------|----------------------------------|
|--------------|----------------------|----------------------------------|

The following State Environmental Planning Policies (SEPPs) are current and whilst not all may be applicable to the Tenterfield Shire they are all being acknowledged and some are considered in more detail where relevant.

| | | |
|---|----|--|
| State Environmental Planning Policy No 1 - Development Standards | No | Not applicable to the planning proposal. |
| State Environmental Planning Policy No 19 - Bushland in Urban Areas | No | |
| State Environmental Planning Policy No 21 - Caravan Parks | No | |
| State Environmental Planning Policy No 33 - Hazardous and Offensive Development | No | |
| State Environmental Planning Policy No 36 - Manufactured Home Estates | No | |
| State Environmental Planning Policy No 47 - Moore Park Showground | No | N/A |
| State Environmental Planning Policy No 50 - Canal Estate Development | No | |
| State Environmental Planning Policy No 55 - Remediation of Land | No | |
| State Environmental Planning Policy No 64 - Advertising and Signage | No | |
| State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development | No | |
| State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes) | No | N/A |
| State Environmental Planning Policy (Aboriginal Land) 2019 | No | |
| State Environmental Planning Policy (Affordable Rental Housing) 2009 | No | |
| State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 | No | |
| State Environmental Planning Policy (Coastal Management) 2018 | No | |
| State Environmental Planning Policy (Concurrences and Consent) 2018 | No | |
| State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 | No | |
| State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 | No | Provisions apply differently to Heritage Items and Heritage Conservation Areas in some development categories. |
| State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 | No | |
| State Environmental Planning Policy (Gosford City Centre) 2018 | | |
| State Environmental Planning Policy (Infrastructure) 2007 | No | |
| State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007 | No | N/A |

| State Environmental Planning Policy (Koala Habitat Protection) 2019 | No | |
|---|-----------------------------|--|
| State Environmental Planning Policy (Kurnell Peninsula) 1989 | No | N/A |
| Name of SEPP | Relevant/applicable? | Comment/statement of consistency |
| State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 | No | |
| State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 | No | |
| State Environmental Planning Policy (Penrith Lakes Scheme) 1989 | No | N/A |
| State Environmental Planning Policy (primary Production and Rural Development) 2019 | No | |
| State Environmental Planning Policy (State and Regional Development) 2011 | No | |
| State Environmental Planning Policy (State Significant Precincts) 2005 | No | |
| State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 | No | N/A |
| State Environmental Planning Policy (Sydney Region Growth Centres) 2006 | No | N/A |
| State Environmental Planning Policy (Three Ports) 2013 | No | N/A |
| State Environmental Planning Policy (Urban Renewal) 2010 | No | N/A |
| <u>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</u> | No | |
| State Environmental Planning Policy (Western Sydney Employment Area) 2009 | No | N/A |
| State Environmental Planning Policy (Western Sydney Parklands) 2009 | No | N/A |
| State Environmental Planning Policy (Concurrences) 2018 | No | |
| State Environmental Planning Policy (Aboriginal Land) 2019 | No | <i>Note - the Land Application Map accompanying SEPP (Aboriginal Land) 2019 should be checked to determine if the planning proposal affects any land on that map and therefore if it is affected by this SEPP.</i> |

APPENDIX 2: SECTION 9.1 DIRECTION CONSISTENCY CHECKLIST

| SECTION 9.1 DIRECTION | CONSISTENCY | COMMENTS |
|------------------------------|--------------------|-----------------|
|------------------------------|--------------------|-----------------|

| 1. EMPLOYMENT AND RESOURCES | | |
|---|-----|--|
| 1.1 Business and Industrial Zones | N/A | |
| 1.2 Rural Zones | N/A | |
| 1.3 Mining, Petroleum Production and Extractive industries | N/A | |
| 1.4 Oyster Aquaculture | N/A | |
| 1.5 Rural Lands | N/A | |
| 2. ENVIRONMENT AND HERITAGE | | |
| 2.1 Environmental protection Zones | N/A | |
| 2.2 Coastal management | N/A | |
| 2.3 Heritage Conservation | YES | The Planning Proposal is consistent and complementary to these policies proposing 7 additional Heritage Items. |
| 2.4 Recreation Vehicle Areas | N/A | |
| 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs | N/A | |
| 3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT | | |
| 3.1 Residential Zones | N/A | |
| 3.2 Caravan Parks and Manufactured Home Estates | N/A | |
| 3.3 Home Occupations | N/A | |
| 3.4 Integrated Land Use and Transport | N/A | |
| 3.5 Development Near Regulated Airports and Defence Airfields | N/A | |
| 3.6 Shooting Ranges | N/A | |
| 3.7 Reduction in non-hosted short term rental accommodation period | N/A | |
| 4. HAZARD AND RISK | | |

| | | |
|--|--------------------|---|
| 4.1 Acid Sulfate Soils | N/A | |
| 4.2 Mine Subsidence and Unstable land | N/A | |
| 4.3 Flood Prone Land | N/A | |
| 4.4 Planning for Bushfire Protection | APPLIES | The proposed addition of heritage items does not alter existing land use zonings. Existing land |
| SECTION 9.1 DIRECTION | CONSISTENCY | COMMENTS |
| | | uses may be subject to future additions or uses which are already permissible within the broad zoning provisions and may be subject to referral to the NSW RFS if they are located in an area of bushfire risk. The proposal does not create a significant alteration to current land uses or development potential. |
| 5. REGIONAL PLANNING | | |
| 5.1 Implementation of Regional Strategies | Not applicable. | The New England North West Strategic Regional Action Plan 2012 applies and the Planning Proposal is consistent with the direction for this plan to 'Protect and conserve significant cultural heritage now and for future generations (beyond the 20 year life of this plan), through managing the ongoing impacts from development, including local and regional development and mining activities'. |
| 5.2 Sydney Drinking Water Catchments | Not applicable. | |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast | Not applicable. | |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast | Not applicable | |
| 5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) | Not applicable. | <i>Revoked 18 June 2010</i> |
| 5.6 Sydney to Canberra Corridor | Not applicable. | <i>Revoked 10 July 2008 - See amended Direction 5.1</i> |
| 5.7 Central Coast | Not applicable. | <i>Revoked 10 July 2008 - See amended Direction 5.1</i> |
| 5.8 Second Sydney Airport: Badgerys Creek | Not applicable. | |
| 5.9 North West Rail Link Corridor Strategy | Not applicable. | |
| 5.10 Implementation of Regional Plans | YES | Consistent with policy direction. |

| | | |
|--|----------------|--|
| 5.11 Development of Aboriginal Land Council land | Not applicable | |
| 6. LOCAL PLAN MAKING | | |
| 6.1 Approval and Referral Requirements | YES | This Planning Proposal has been prepared in accordance with policy direction and requirements. |
| 6.2 Reserving Land for Public Purposes | Not applicable | |
| 6.3 Site Specific Provisions | Not applicable | |
| 7. METROPOLITAN PLANNING | | |
| Not applicable | | |