

# Planning Proposal – Temporary Events

## Revision 2 – October 2020

Proposed Amendment to the  
*Tamworth Regional Local Environmental Plan 2010*

Amendment to enable Temporary Events to be undertaken  
without Development Consent on public reserves and/or local  
public roads

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Version 2

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## Introduction

This version (Revision 2) of the *Temporary Events Planning Proposal* has been revised in accordance with the requirements of Gateway Determination PP\_2020\_TAMWO\_001\_00 (12 October 2020).

The revised planning proposal has been amended to ensure that all recommendations listed in the Altered Gateway Determination Report dated 12 October 2020 have been addressed as follows:

1. Change the description of the planning proposal

**from**

*Planning Proposal (Department Ref: PP\_2020\_TAMWO\_001\_00) to enable temporary events and associate temporary structures without development consent in the RE1 Public Recreation zone and on local public roads.*

**to**

*Planning Proposal (Department Ref: PP\_2020\_TAMWO\_001\_00) to enable temporary events and associate temporary structures without development consent on public reserves and/or local public roads.*

2. Delete condition 6:

“The time frame for completing the LEP is to be 9 months following the date of the Gateway determination”

and replace with:

“The time frame for completing the LEP is by 18 June 2021”.

3. Insert new condition 7:

“7. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018) and must be made publicly available for a minimum of 14 days; and

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 section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

4. Insert new condition 8:

“8. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- NSW Rural Fire Service
- Transport for NSW - Roads and Maritime Services

Each public authority/organization is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

## **Background**

This revised planning proposal (Revision 2) addresses issues raised during public exhibition and agency consultation in relation to the planning proposal. Following the completion of public exhibition Council resolved at its Ordinary Meeting of 8 September 2020, to endorse the following amendments to the wording of the planning proposal:

1. the objective of the clause will be amended to enable temporary events and associated temporary structures without development consent on **public reserves** and local public roads;
2. insertion of an additional statement which states that temporary events do not include overnight camping or accommodation; and
3. include a statement which reads “events which are the subject of this clause must not generate or cause any significant impact on the environment or public amenity”.

The intent, aims and objectives of the planning proposal, as exhibited, remain unchanged in the revised version.

Revision 2 of the planning proposal broadens the scope of the proposal by ensuring that temporary events and activities can be undertaken on public reserves and local public roads throughout the region rather than restricting such events to land specifically zoned *RE1 Public Recreation*.

Moreover, the proposed additional statements (statements 2 and 3) will provide additional controls in relation to temporary events and ensure that protection of the environment, in all its forms, is a primary consideration for Council and event applicants.

## PART 1: OBJECTIVES OR INTENDED OUTCOMES

### SECTION A – BACKGROUND

This revised planning proposal recommends an amendment to the *Tamworth Regional Local Environmental Plan 2010* (TRLEP 2010) to enable temporary events to be undertaken on public reserves and/or local public roads within the region without development consent.

The revised planning proposal also removes duplication of the approvals process under the Local Government Act 1993, the Roads Act 1993 and the Environmental Planning and Assessment Act 1979 (the Act).

This document sets out the justification for and explains the intended effect of the recommended amendment.

The process involves a number of steps, described below in Table 1, which demonstrate the stages of consultation, consideration and revision **applicable** throughout the Gateway Process.

This document (Revision 2) represents Step 5: Revision.

No.	Step	Explanation
1.	Planning Proposal	Council prepares a document explaining the effect of and justification for making or amending a local environmental plan.
2.	Gateway Determination	The NSW Department of Planning, Industry and Environment determines whether a planning proposal should proceed.
3.	Community Consultation	The planning proposal is publicly exhibited.
4.	Assessment	Council considers any submissions it receives in response to the public exhibition, amending the planning proposal as necessary.
5.	Revision	Council recommends amendments to the planning proposal following consultation. A revised Gateway Determination is issued due to the recommended amendments.
6.	Community Consultation	The revised planning proposal is re-exhibited.
7.	Drafting	NSW Parliamentary Counsel's Office prepares a draft local environmental plan.
8.	Decision	The Minister (or delegated plan making authority) approves the local environmental plan, making it law.

Table 1 – Gateway Process

The remainder of this document is split into the following parts:

Part	Explanation
1.	The objectives and intended outcomes of the revised planning proposal.
2.	An explanation of the provisions to be included in the TRLEP 2010.
3.	Justification for the objectives and intended outcomes.
4.	Mapping.
5.	Projected timeline.

Table 2 – Parts of Planning Proposal

## SECTION B – OBJECTIVES

The objectives and intended outcomes of this revised planning proposal are:

1. To enable certain temporary events to be undertaken on *public reserves* and *local public roads* without development consent;
2. To remove duplication of the approvals process under the *Local Government Act 1993*, the *Roads Act 1993* and the *Environmental Planning and Assessment Act 1979* as it relates to temporary events by removing the requirement for development approval in accordance with the *Environmental Planning and Assessment Act 1979*.

## PART 2: EXPLANATION OF PROVISIONS

*State Environmental Planning Policy No.1 – Development Standards* (SEPP 1) and *State Environmental Planning Policy – Miscellaneous Consent Provisions* (MCP SEPP) are no longer relevant to this revised planning proposal. Both SEPP's have been repealed subsequent to the Draft submission of this proposal.

The *Tamworth Regional LEP 2010* (TRLEP 2010) is based on the Standard Instrument LEP and contains provision "Part 2, Clause 2.8 – Temporary use of land" which requires development consent to be obtained for development on land in any zone for a temporary use for a maximum period of 182 days (whether or not consecutive days) in any period of 12 months.

To achieve the revised planning proposal's objectives, it is proposed to amend the TRLEP 2010 to enable temporary events (in certain circumstances) to be undertaken on public reserves and/or on local public roads without development consent.

This revised planning proposal does not propose to modify the provisions of "Part 2, Clause 2.8 - Temporary use of land" under the TRLEP 2010 but rather allow for events to be permitted without development consent on public reserves and/or on local public roads.

### *Remove the requirement for development consent for temporary events on public reserves and local public roads*

The revised planning proposal will allow for temporary events and structures that are associated with an event to be erected without development consent.

The revised planning proposal aims to ensure that removing the need for a development application will encourage a wider and more diverse range of temporary events and a stronger night-time economy throughout the region.

The revised proposal relates to all public reserves and/or local public roads, within the Tamworth Regional Local Government Area.

## PART 3: JUSTIFICATION

In accordance with the NSW Department of Planning, Industry and Environment's 'Guide to Preparing Planning Proposals', this section considers the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to the strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

### SECTION A – NEED FOR THE PLANNING PROPOSAL

#### 1. Is the planning proposal the result of any strategic study?

This revised planning proposal is not the direct result of a strategic study. The *Draft Tamworth Regional Blueprint 100* (Blueprint) was endorsed by Council in December 2019 with the intention of becoming the key growth strategy for the region. Blueprint provides a roadmap to take the Tamworth Region towards its vision of a prosperous economy with high living standards and a population of 100,000 people by 2040. One of the key priorities contained in Blueprint is Priority 2.3, which describes “a strong and vibrant Tamworth City Centre”. This priority emphasises the importance of reinforcing the existing vitality of the city centre and leveraging the city’s ongoing events success through initiatives to encourage inner-city living, cultural precinct development and improving linkages to Bicentennial Park. An emphasis on strengthening the night-time economy will be encouraged and supported through the successful adoption of this revised planning proposal.

Outside of the Tamworth CBD, the region as a whole is a well established events destination. Towns and villages across the LGA play host to a wide variety of events and community activities throughout the year. Growth in “pop up” events has expanded significantly in recent years due, in part, to Council’s ongoing investment in recreation areas, parks and gardens which encourage community use and engagement.

This revised planning proposal will further encourage community events and activities across the entire Tamworth regional LGA while reinforcing our existing competitive advantage within the events space.

It is considered that this revised planning proposal is a proactive and positive step in encouraging temporary events to be carried out on public reserves without development consent. However, this planning proposal will not provide exemptions for temporary events on *private* lands, development consent for such events will still be required.

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

It is considered that an amendment to the *Tamworth Regional LEP 2010* (TRLEP 2010) is the only appropriate method for achieving the objectives and outcomes sought by this revised planning proposal.

The current version of the TRLEP 2010 does not adequately address temporary events and as such this revised planning proposal is considered the most effective means of permitting this land use within public reserves and on local public roads, provided all other necessary permits (*Local Government Act 1993, Roads Act 1993* etc.) are obtained.

Provision 68 of the *Local Government Act 1993* requires that a person can only carry out an activity such as:

- Engage in a trade of business,
- Direct or procure a theatrical, musical or other entertainment for the public,
- Construct a temporary enclosure for the purpose of entertainment,
- For fee or reward, play a musical instrument or sing,
- Set up, operate or use a loudspeaker or sound amplifying device,
- Deliver a public address or hold a religious service or public meeting, with the consent of Council.

Under the provisions of the TRLEP 2010 development consent is required for temporary events. In many instances, approval is also required under the provision of Section 68 of the *Local Government Act 1993* as outlined above. The requirement for approval to be obtained under the *Local Government Act 1993* will remain in force.

## 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 New England North West Regional Plan 2036*, hereafter referred to as the Regional Plan, was prepared by the NSW Department of Planning, Industry and Environment to give strategic direction to development in the New England North West Region and is a relevant consideration for this revised planning proposal.

The Regional Plan sets out four regionally focused goals, directions and actions as policy measures targeted toward achieving the Plans goals.

The goals of the New England North West Regional Plan 2036 are:

- Goal 1 – A strong and dynamic regional economy;
- Goal 2 – A healthy environment with pristine waterways;
- Goal 3 – Strong infrastructure and connected transport networks for a connected future; and
- Goal 4 – Attractive and thriving communities.

Goal 1 – A strong and dynamic regional economy; the following directions are considered relevant to this planning proposal:

- “Direction 8: expand tourism and visitor opportunities” - describes the capacity of the larger regional centres to host major events and acknowledges that opportunities exist to further expand tourism visitation and expenditure in this space. Moreover, the

Regional Plan acknowledges that tourism generates extensive economic, social and cultural benefits which provide for long term sustainable growth.

- “Direction 9: Coordinate growth in the cities of Armidale and Tamworth” - The two centres of Armidale and Tamworth will accommodate over half of the region’s population by 2036. The importance of Peel Street and Bicentennial Park are acknowledged as key assets for community health, continued growth in tourism, and commerce.

The Local Government narratives within the Regional Plan identify priorities for each Council within the Regional Plan area. The priority actions which are relevant to the Tamworth Regional LGA include:

- Deliver precinct plans to provide a holistic vision and planning framework for the regional cities (Armidale and Tamworth); and
- Prepare activation plans for the regional cities.

It is considered that this revised planning proposal provides flexibility and opportunities for the Tamworth regional community to develop new events and enhance existing events by facilitating a more streamlined process for temporary events.

The revised planning proposal is considered to be commensurate with the goals, directions, themes and narratives described in the Regional Plan.

#### **4. Is the planning proposal consistent with the local Council’s Community Strategic Plan or other local strategic plan?**

Keychange 2017-2027 – Community Strategic Plan (CSP) presents the community endorsed vision and strategic plan for the Tamworth region. The CSP was prepared in 2016 and relates to the entirety of the Tamworth Regional Local Government Area.

The CSP’s vision is “A region of opportunity and prosperity, a place to call home.”

The CSP promotes the development of partnerships with the community, government and non-government agencies to work towards achieving social outcomes that include:

- Provide accessible, functional, multi-purpose facilities and spaces suitable for cultural, recreational, learning and information services and activities; and
- Support and facilitate economic development and employment opportunities.

This revised planning proposal does not directly relate to any provisions or outcomes of the CSP. However, it is considered that it proactively provides the opportunity for an increase in community events and entertainment. Temporary events have the capacity to encourage additional economic development and tourism in the Tamworth Regional LGA by promoting and expanding existing events opportunities as well as providing new opportunities for community members and local businesses to market goods and services. This in turn will further reinforce the Tamworth region as a tourist destination; attracting new residents and businesses to the region.

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

This revised planning proposal is considered to be consistent with all current and applicable SEPPs. Please refer to *Attachment 2* for consideration of the relevant SEPPs.

**6. Is the planning proposal consistent with applicable Ministerial Directions (S.9.1 Directions)?**

The NSW Minister for Planning issues Local Planning Directions which Council must follow when preparing a planning proposal. The Directions cover the following broad categories:

- Employment and resources;
- Environment and heritage;
- Housing, infrastructure and urban development; and
- Hazard and risk.

This revised planning proposal has considered all relevant Ministerial Directions and is either consistent with all Local Planning Directions or where inconsistency is identified, justification is provided.

Please refer to *Attachment 3* for consideration of the S.9.1 Ministerial Directions.

## 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?**

No. The revised planning proposal will not impact upon critical habitats, threatened species, populations, ecological communities or their habitats.

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

No. The revised planning proposal will not have any likely environmental effects.

Provision 89 of the *Local Government Act 1993* outlines the matters that must be taken into consideration when considering an application for approval for an activity such as an event. Amongst other things council is required to take into consideration protection of the environment, protection of public health, safety and convenience and any items of cultural and heritage significance which might be affected.

Additionally, any land that is owned by council and is classified as Community Land under the *Local Government Act 1993* must have a “Plan of Management”. Community Land is generally open to the public and includes parks, reserves and sports grounds. Plans of Management also must address any environmental areas and how the land is to be used and managed.

It is considered that there are sufficient requirements in place to ensure that any areas of critical habitat, threatened species populations, ecological communities or their habitats, will not be adversely affected as a result of this revised planning proposal.

**9. How has the planning proposal adequately addressed any social and economic effects?**

Temporary events provide an opportunity for local producers, retailers and crafts-persons to market their products, resulting in direct economic flow-on effects. Events also provide opportunities for community groups and individuals to utilise public spaces for a wide variety of purposes which may have no direct economic benefit but facilitate community betterment and positive social interaction.

It is considered that the revised planning proposal will generate positive social and economic benefits by providing an opportunity for temporary events to be held on public reserves and/or local public roads without the need for development consent.

## SECTION D – COMMONWEALTH AND STATE INTERESTS

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

Not applicable. It is considered that there are no additional infrastructure implications arising from this revised planning proposal.

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

Relevant State and Commonwealth Government agencies will be consulted in accordance with the requirements of any Gateway Determination.

## PART 4: MAPPING

This revised planning proposal is limited to amendments to the written instrument only and no mapping changes are proposed.

The revised planning proposal relates to public reserves and local roads located throughout the Tamworth region, therefore specific mapping is not considered necessary.

Tamworth Regional LEP 2010 maps can be viewed online on the NSW Legislation website, [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

## PART 5: COMMUNITY CONSULTATION

In accordance with the NSW Department of Planning, Industry and Environment's Guidelines to preparing LEPs, upon Gateway Determination adjoining landholders and any affected community organisations will be formally notified of the proposal and invited to provide comment.

In accordance with prevailing Departmental Guidelines and the provisions of the *Environmental Protection Authority Act*, the revised planning proposal will be notified publicly for the prescribed period of 14 days on Council's website at <http://www.tamworth.nsw.gov.au>. Public exhibition will be carried out in accordance with the requirements of the EPA Act, EPA Regulations and the altered Gateway Determination.

## PART 6: PROJECT TIMELINE

It is expected that the relevant steps in the revised planning proposal process will be completed as set-out in the table below:

Milestone	Timeframe
Consideration of any submissions received/made during the period of public notification/consultation	July 2020
Council endorse proposed amendments to the planning proposal	September 2020
Alteration of Gateway Determination issued by the Department of Planning, Industry and Environment	October 2020
Re-exhibition of the planning proposal and any required consultation with public authorities	November 2020
Refer proposal to Parliamentary Counsel and obtain Opinion	January/February 2021
Determination to make the LEP and notification of the LEP on the NSW Legislation website	February/March 2021

**Note:** this project timeline has been drafted on the assumption that Council will be permitted to utilise its delegated plan making powers as delegated by the NSW Department of Planning, Industry and Environment. Timeframes for achieving milestones may be subject to change pending issues arising during the planning proposal process.