

PLANNING PROPOSAL

Planning Proposal – Temporary Events

Proposed Amendment to the Tamworth Regional Local Environmental Plan 2010

Amendment to enable Temporary Events to be undertaken without
Development Consent on land reserved for public recreation and/or a
local public road.

PART 1: OBJECTIVES OR INTENDED OUTCOMES

SECTION A – BACKGROUND

This planning proposal recommends an amendment to the *Tamworth Regional Local Environmental Plan 2010* (TRLEP 2010) to enable temporary events to be undertaken on land zoned RE1 Public Recreation and/or on any local public roads within the region without development consent.

The 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*.

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

The preparation of this planning proposal is the first step in the NSW Department Planning, Industry and Environment's Gateway Process, which is the process for making or amending local environmental plans.

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

This document represents Step 1: Planning Proposal.

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.	Drafting	NSW Parliamentary Counsel's Office prepares a draft local environmental plan.
6.	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 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 planning proposal are:

1. To enable certain temporary events to be undertaken on land zoned RE1 Public Recreation and/or on any 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 (Miscellaneous Consent Provisions) 2007 (MCP SEPP) aims to ensure that developments such as building demolition, subdivision of land and the conversion of fire alarm systems require development consent.

The MCP SEPP also introduced State-wide provisions to enable:

- The erection of temporary structures with development consent; and
- Limited change of use in certain business zones to occur without development consent.

The Standard Instrument LEP contains standard clauses that were intended to supersede certain clauses of the MCP SEPP.

It is understood that the NSW Department of Planning, Industry and Environment is reviewing SEPPs to simplify and improve the planning system by removing duplicated, redundant and outdated planning controls. The Department proposes to improve and simplify NSW development standards by repealing *State Environmental Planning Policy No.1 – Development Standards* (SEPP No.1) and MCP SEPP. The planning provisions contained in these two policies will be incorporated in local planning controls. The submission period for the repeal of these two SEPPs has now closed.

The *Tamworth Regional LEP 2010* (TRLEP) 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 planning proposal’s objectives, it is proposed to amend the TRLEP 2010 to enable temporary events (in certain circumstances) to be undertaken on land zoned RE1 Public Recreation and/or on any local public roads without development consent.

This 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 land zoned RE1 Public Recreation and/or on

any local public roads. The planning proposal will allow for temporary structures that are associated with the event to be erected without development consent.

This planning proposal relates to all land zoned RE1 Public Recreation, or local public roads, in accordance with the provisions of the TRLEP 2010.

The purpose of this planning proposal will be facilitated via the insertion of the following “Clause 6.9 in Part 7 – Additional local provisions”:

Clause 6.9 Events permitted without development consent:

- (1) The objective of this clause is to provide for the temporary use of land zoned RE1 Public Recreation and/or on any local public roads for exhibitions, meeting, concerts or events.
- (2) Despite any other provisions of this Plan, development (including any associated temporary structures) for the purpose of a temporary event may be carried out on land zoned RE1 Public Recreation and/or on any local public roads without development consent.

Note. Other approvals may be required, and must be obtained, under other Acts, including the *Local Government Act 1993*, the *Roads Act 1993* and the *Crown Lands Act 1989*.

- (3) *State Environmental Planning Policy (Miscellaneous Consent Provisions)* does not apply to development to which this clause applies.

- (4) In this clause:

Public road has the same meaning as in the *Roads Act 1993* which means:

- (a) Any road that is opened or dedicated as public road, whether under this or any other Act or law, and
- (b) Any road that is declared to be a public road for the purposes of this Act.

“Temporary events means an exhibition, meeting, concert or other event that is open to the public for which land is used for a period not more than 52 days (whether or not consecutive) in any 12 month period and does not include overnight camping/accommodation.”

The undertaking of temporary events on private lands or where overnight camping/accommodation is provided will continue under its present format whereby development consent is required.

PART 3: JUSTIFICATION

In accordance with the 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 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 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 planning proposal.

Outside of the Tamworth CBD, the region is a well established events destination. Towns and villages in the region 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 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 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 planning proposal.

The current version of the TRLEP 2010 does not adequately address temporary events and as such this planning proposal is considered the most effective means of permitting this land use within public reserves and roads providing 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.

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 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 planning proposal provides flexibility and opportunities for the Tamworth regional community to develop new events and enhance existing events by providing a streamlined process for temporary events.

This planning proposal is considered to be commensurate with the goals, directions, theme 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 Tamworth Region which 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 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?

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 (MCP SEPP) is the only SEPP applicable to this planning proposal.

The MCP SEPP aims to ensure that developments such as building demolition, subdivision of land and the conversion of fire alarm systems require development consent.

The MCP SEPP also introduced State-wide provisions which enable:

- The erection of temporary structures with development consent, and
- Limited change of use in certain business zones to occur without development consent.

The Standard Instrument LEP contains standard clauses that were intended to supersede the clause of the MCP SEPP.

It is understood that the NSW Department of Planning, Industry and Environment is reviewing SEPPs to simplify and improve the planning system by removing duplicated, redundant and outdated planning controls. The Department proposes to improve and simplify NSW development standards by repealing *SEPP No.1 – Development Standards* (SEPP No. 1) and MCP SEPP. The planning provisions contained in these two policies will be incorporated in local planning controls. The submission period for the repeal of these two SEPPs has now closed.

The *Tamworth Regional LEP 2010* is based on the Standard Instrument LEP and contains provision “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 in any period of 12 months.

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.

Each S. 9.1 Ministerial Direction is listed below, Table 3, with an annotation stating whether it is relevant to the planning proposal and comments relating to its consistency with the corresponding objective. The planning proposal has considered all Ministerial Directions and is consistent with all Local Planning Directions.

S. 9.1 Direction	Consistency with Planning Proposal
1.1 Business and Industrial Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction.
1.2 Rural Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.
1.4 Oyster Aquaculture	Not applicable.
1.5 Rural Lands	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
2.1 Environment Protection Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
2.2 Coastal Protection	Not applicable.
2.3 Heritage Conservation	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
2.4 Recreation Vehicle Areas	Not applicable.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable.
3.1 Residential Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
3.4 Integrating Land Uses and Transport	Not applicable.
3.5 Development Near Licensed Aerodromes	Not applicable.

3.6 Shooting Ranges	Not applicable.
4.1 Acid Sulfate Soils	Not applicable.
4.2 Mine Subsidence and Unstable Land	Not applicable.
4.3 Flood Prone Land	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
4.4 Planning for Bushfire Protection	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction
5.1 Implementation of Regional Strategies (Revoked 17 October 2017)	Not applicable.
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) (Revoked 18 June 2010)	Not applicable.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)	Not applicable.
5.7 Central Coast (Revoked 10 July 2008)	Not applicable.
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	The planning proposal is consistent with this Direction.
6.1 Approval and Referral Requirements	Not applicable.
6.2 Reserving Land for Public Purposes	Not applicable.
6.3 Site Specific Provisions	Not applicable.
7.1 Implementation of A Plan for Growing Sydney	Not applicable.
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation plan	Not applicable.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Plan	Not applicable.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.

Table 3. 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 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 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 there are sufficient requirements in place to ensure that any areas of critical habitat or threatened species, populations or ecological communities, or their habitats will not be adversely affected as a result of this 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 craftspersons 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 planning proposal would have positive social and economic effects by providing an opportunity for temporary events to be held on Public Reserves 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 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 planning proposal is limited to amendments to the written instrument only and no mapping changes are proposed. However, mapping indicating areas zoned RE1 Public Recreation, being the affected areas, are included for reference. *Tamworth Regional LEP 2010* maps can also be viewed online on the NSW Legislation website, 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 planning proposal will also be notified publicly for the prescribed period in local newspapers and 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 Gateway Determination.

PART 6: PROJECT TIMELINE

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

Milestone	Timeframe
Council endorse the planning proposal	February 2020
Gateway Determination issued by the Dept. of Planning, Industry and Environment	April 2020
Completion of technical assessment	April 2020
Public exhibition of the planning proposal and any required consultation with any public authorities	May-June 2020
Consideration of any submissions received/made during the period of public notification/consultation	July 2020
Refer proposal to Parliamentary Counsel and obtain Opinion	August 2020
Determination to make the LEP and notification of the LEP on the NSW Legislation website	September 2020

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.