

Planning and Assessment

IRF 20/1109

Gateway determination report

LGA	Tamworth Regional Council
PPA	Tamworth Regional Council
NAME	Enable temporary events and any associated temporary structures without development consent in the RE1 Public Recreation zone and on local public roads
NUMBER	PP_2020_TAMWO_001_00
LEP TO BE AMENDED	Tamworth Regional LEP 2010
ADDRESS	All land zoned RE1 Public Recreation and/or local public roads
DESCRIPTION	As above
RECEIVED	10 March 2020
FILE NO.	IRF 20/1109
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend Tamworth Regional LEP 2010 to enable temporary events and associated temporary structures to be undertaken on land zoned RE1 Public Recreation and on local public roads without consent.

1.2 Site description

The planning proposal applies to all land zoned RE1 Public Recreation and all local public roads across the Tamworth Regional Council Local Government Area.

1.3 Existing planning controls

Temporary uses are currently regulated under clause 2.8 - Temporary Use of Land of Tamworth Regional LEP 2010 which requires development consent for these uses. Council does not intend to modify these provisions but rather allow for events to be permitted without development consent through the inclusion of a new local provision "Events permitted without development consent" (subject to final Parliamentary Counsel drafting).

1.4 Surrounding area

The planning proposal applies to all land zoned RE1 Public Recreation as well as local public roads within the Tamworth Regional Council LGA. Local public roads and land zoned RE1 are scattered across the entire LGA and as such will be surrounded by a variety of zones depending on the location.

1.5 Summary of recommendation

The planning proposal is considered to have merit and is recommended to proceed with conditions.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective and intended outcomes of the planning proposal are:

- to enable certain temporary events to be undertaken on land zoned RE1 Public Recreation and/or local public roads without development consent; and
- 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.

The planning proposal has adequately outlined the objectives and intended outcomes.

2.2 Explanation of provisions

The proposal clearly outlines the additional local provision that will facilitate the intended objectives and outcomes.

The planning proposal includes a proposed draft local clause. To ensure that the final clause is legally consistent with the intent of the proposal, it is considered that the proposed draft clause should be removed for community and agency consultation and replaced with a plain English explanation. The final clause can then be appropriately prepared by Parliamentary Counsel at the plan making stage.

The proposal also incorrectly refers to:

- inserting the provision as Clause 6 of Part 7 of the LEP; and
- SEPP 1 – Development Standards and SEPP (Miscellaneous Consent Provisions) 2007 (which were repealed on 1 February 2020).

These incorrect references should be amended prior to consultation.

2.3 Mapping

No amendments to the LEP mapping are required to facilitate the proposal.

To assist community understanding of the proposal, it is recommended that the proposal be amended prior to consultation to include appropriate mapping of the RE1 Zone areas affected by the proposal.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of any strategic study.

The proposal aims to streamline the current approval process which requires approval under both clause 2.8 Temporary Use of Land of TRLEP 2010 and s68 of the Local Government Act 1993 for temporary events on public land. Council considers that temporary events on public land can be effectively managed under s68 of the Local Government Act 1993 without additional approval under the LEP.

The 'Draft Tamworth Regional Blueprint 100' identifies key growth priorities such as leveraging the city's on-going events success. It is anticipated that the planning proposal will be a proactive step in enabling and encouraging temporary events to be carried out in public places and therefore helping Council to deliver a region that continues to be an 'events' destination.

A planning proposal is the only means to amend the Tamworth Regional LEP 2010 to facilitate the changes.

4. STRATEGIC ASSESSMENT

4.1 State

The planning proposal does not contain any matter of state significance.

4.2 Regional / District

The planning proposal is consistent with the directions and actions of the New England North West Regional Plan 2036.

In particular, the proposal will help to facilitate the achievement of Direction 8 - Expand tourism and visitor opportunities. Tamworth Regional Council views the LGA as a 'destination hub', with both the city and surrounding towns and villages playing host to a variety of events throughout the year. The planning proposal will assist in enabling council to further encourage such events and activities.

4.3 Local

The planning proposal is considered to be consistent and / or not inconsistent with Council's key strategic planning documents (Tamworth Regional Development Strategy 2008, the Community Strategic Plan "Keychange 2017-2027" and the draft Tamworth Regional Blueprint 100).

4.4 Section 9.1 Ministerial Directions

Direction 4.3 Flood Prone Land

The proposal is inconsistent with this Direction as it will potentially allow an intensification of land uses on flood prone land in the RE1 Zone and / or local roads by permitting temporary uses to be carried out without development consent. This inconsistency is considered to be of minor significance due to the temporary nature of the development and as Council can adequately ensure this matter is adequately addressed under the s68 approval process and as the landowner.

Direction 4.4 Planning for Bushfire Protection

The proposal affects land identified as being bushfire prone. The Direction provides that the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service (RFS) after a Gateway Determination is issued. Until this consultation has occurred, the consistency of the proposal with the Direction remains unresolved.

4.5 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all applicable SEPPs. The planning proposal does however make reference to SEPP (Miscellaneous Consent Provisions) 2007 and SEPP 1 - Development Standards to the proposal. These SEPPs have now been repealed. The proposal should be amended prior to consultation to update this discussion.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social/Economic

It is considered that the planning proposal will have a positive social and economic effect by streamlining and providing greater opportunities for more temporary events that support local community organisations and well as providing direct financial input into the local economy.

5.2 Environmental

No adverse environmental impacts are anticipated as a result of the proposal. It is considered that Council has sufficient plans and policies in place in relation to public land that will ensure that any areas of critical habitat or threatened species, population or ecological communities, or their habitats will not be adversely affected as a result of this planning proposal.

It is anticipated that the large majority of any temporary events or associated development under the proposed local provision will occur in RE1 zoned areas. These areas are owned and managed by Council, are generally classified as community land under the Local Government Act 1993 with a Plan of Management in place that addresses any environmental issues and how the land is to be appropriately used. This is considered satisfactory.

In some circumstances, approvals also may be required under the Local Government Act 1993, Roads Act 1993 and the Crown Lands Act 1989.

5.3 Infrastructure

There is no new local or state infrastructure required to facilitate the planning proposal.

The planning proposal relates to events and activities that are temporary in nature and as such it is considered unlikely that any long-term significant impact on infrastructure will result. Consultation with RMS is however recommended as some temporary events may take place on local public roads.

6. CONSULTATION

6.1 Community

As the activities that will be facilitated by the proposal are temporary and likely to be of a low impact nature, it is recommended that the planning proposal be advertised for a minimum of 14 days.

6.2 Agencies

It is recommended that the council consult with the following agencies:

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

7. TIME FRAME

The proposal provides for a 6 month timeframe, with completion scheduled for September 2020. It is considered appropriate that Council however be given a 9-month timeframe to ensure adequate time to complete the proposal.

8. LOCAL PLAN-MAKING AUTHORITY

Council have requested an authorisation to exercise delegation for this proposal. As the proposal is of local significance and does not raise issues of State or regional significance, it is considered appropriate that Council be authorised to act as the local plan-making authority for this matter.

9. CONCLUSION

The planning proposal is supported to proceed subject to conditions, as:

- it meets the adequacy criteria by providing appropriate objectives and intended outcomes as well as a suitable explanation of the provisions and justification for the proposal;

- appropriate community consultation will be undertaken, and a practical project timeline has been provided;
- it is capable of achieving consistency or justifiable inconsistency with all relevant Section 9.1 Directions and SEPPs subject to consultation with the NSW Rural Fire Service;
- it is not inconsistent with the New England North West Regional Plan 2036 or Council's strategic planning framework'; and
- it is unlikely to have any detrimental impact on the environment or the socio-economic welfare of the local government area.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 4.3 Flood Prone Land is justified in accordance with the terms of the Direction; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service; and
 - Transport for NSW - Roads and Maritime Services.
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Prior to public exhibition, the planning proposal is to be amended to:
 - update discussion regarding SEPP (Miscellaneous Consent Provisions) 2007 and SEPP 1 (Development Standards) as both have now been repealed;
 - remove clause 6.9 'Events permitted without Consent' and associated references and replace with a plain English explanation; and
 - include appropriate mapping of the RE1 Zone areas affected by the proposal.



18 March 2020

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