

# Planning Proposal 02/2019

**Proposed Amendment to Narrabri Local Environmental Plan 2012**

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

**Version 01**

# **PART 1: OBJECTIVES OR INTENDED OUTCOMES**

## **SECTION A – BACKGROUND**

This planning proposal recommends an amendment to the *Narrabri Local Environmental Plan 2012* (LEP 2012) to enable Temporary Events and development associated with Temporary Events on land zoned RE1 Public Recreation and/or any public roads within the Shire to be undertaken 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 the planning proposal is the first step in NSW Planning and Environment’s Gateway Process, the process for making or amending local environmental plans. It has a number of steps, set out in Table 1 that requires this document to be revised as it progresses through the Gateway Process. This document is currently at Step 1: Planning Proposal.

<b>No.</b>	<b>Step</b>	<b>Explanation</b>
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 Department of Planning 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, changing the planning proposal as necessary.
5.	Drafting	Parliamentary Counsels 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:

<b>Part</b>	<b>Explanation</b>
1.	The objectives and intended outcomes of the proposal
2.	An explanation of the provisions to be included in LEP 2012
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 and development associated with Temporary Events on land zoned RE1 Public Recreation and/or any public roads to be undertaken 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 and development associated with Temporary Events by not requiring development approval to be granted under the *Environmental Planning and Assessment Act 1979*.

## **PART 2: EXPLANATION OF PROVISIONS**

*State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007* (MCP SEPP) was made to ensure that such things as the demolition of buildings, subdivision of land the conversion of fire alarm systems were matters that required development consent. The MCP SEPP makes these forms of development require consent across NSW.

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 the clause of the MCP SEPP.

It is understood that the Department of Planning and Environment is reviewing SEPPs to simplify and modernise 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 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 closed and now being considered.

Narrabri LEP 2012 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 28 days in any period of 12 months.

To achieve the planning proposal's objectives, it is proposed to amend the LEP 2012 to enable Temporary Events and development associated with Temporary Events (in certain circumstances, ie. temporary structures and signage) to be undertaken as Exempt Development on land zoned RE1 Public Recreation and/or any public roads.

This planning proposal does not propose to modify provision 2.8 Temporary use of land under the Narrabri LEP 2012 but rather allow for events to be permitted without development consent on land zoned RE1 Public Recreation and/or any 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 within the LEP 2012 area that is zoned RE 1 Public Recreation or a public road.

The planning proposal intends to enable this by amending LEP 2012 by inserting the following Clause 6.9 in Part 6 – Additional local provisions:

### *"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 any public roads for exhibitions, meeting, concerts or events.*
- (2) Despite any other provision of this Plan, development (including any associated temporary structures) for the purpose a temporary event may be carried out on land zoned RE1 Public Recreation and/or any 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 requiring Development Consent.

## **PART 3: JUSTIFICATION**

In accordance with the Department of Planning and Infrastructure'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
- Section D: State and Commonwealth Interests

### **SECTION A – NEED FOR THE PLANNING PROPOSAL**

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

In July 2012 the CBD Masterplan was prepared to guide future upgrade works and new strategic planning initiatives for the Narrabri CBD. The Masterplan promotes the best economic and social outcomes along with significant streetscape and amenity improvements. The vision for the Narrabri CBD contained within the Masterplan is *“a place for all people in all seasons, which reflects the heart and values of the Narrabri community. The Narrabri CBD is the centre of a flourishing local economy with a welcoming and comfortable atmosphere. The CBDs physical elements work together to support current community needs, future local growth and community development opportunities.*

*The function of the CBD as a local service centre is enhanced through attractive street embellishments, practical environmental initiatives and the retention and further development of diverse, quality shopping and social experiences for locals and tourists alike.”*

The Masterplan identifies that town planning controls that apply to the Narrabri CBD area, together with other town planning and urban design initiatives will have a strong influence on the built form outcomes, land use, conservation of significant historical elements and other important environmental outcomes within the town centre. The Masterplan provides a number of objectives and proposals for action including:

***B.3 Social Planning Proposals – Council to encourage community use of the Core CBD Area by facilitating community events and activities in the Core CBD area***

Whilst the Masterplan focuses on the Narrabri CBD the encouragement of community events and activities across the entire Narrabri LGA is seen as an opportunity and builds upon the existing major events.

The need to develop provisions for Temporary Events continues to grow as Local Government Areas (LGAs) encourage and develop events within their communities.

It is noted that in recent times a number of Council's, including Gloucester, Newcastle, Port Stephens and Great Lakes have included provisions within their LEPs relating to Temporary Events.

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. This planning proposal will not provide for exemptions for Temporary Events on private lands however, Development Consent requirements for such events will continue to be assessed by Council.

#### **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 Narrabri LEP 2012 is the only method to achieve the objectives and outcome sought by this planning proposal.

The current version of the Narrabri LEP 2012 does not address this land use and as such this planning proposal is considered the most effective means of permitting Temporary Events 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 current Narrabri LEP 2012 development consent is required for temporary events to be held. In many instances, approval is also required under provision 68 of the Local Government Act 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 Department of Planning 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* recognises the network of regional cities and centres support diverse industries and that as their industries grow, centres will thrive and require high quality health, education and recreation options. The *Regional Plan* goes on to further recognise the regional cities of Tamworth and Armidale and the strategic centres of Narrabri, Moree, Inverell and Glen Innes will be the focus of employment and services.

The *Regional Plan* sets out four regionally focused goals and Direction's 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
- Goal 4 – Attractive and thriving communities

The following Direction is considered relevant to this planning proposal:

*Direction 8: Expand tourism and visitor opportunities* under Goal 1 – A strong and dynamic regional economy recognises that the New England North West hosts major events and that there is an opportunity to expand tourism visitation and expenditure. The *Regional Plan* recognises that tourism generates employment and business growth that contributes to economic outcomes.

It is considered that this planning proposal provides flexibility and opportunities for the Narrabri Shire community to develop new events and enhance existing events by providing a streamlined process for Temporary Events.

The *Local Government Narratives* within the *Regional Plan* identifies priorities for each Council within the *Regional Plan* area. The relevant Narrabri LGA priorities for this planning proposal include:

- *Expand nature based adventure and cultural tourism places and enhance visitor experiences* – it is considered that this planning proposal is a positive and proactive way in achieving this priority as it allows Temporary Events to be held on Public Reserves to be permitted without development consent.

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

The *Community Strategic Plan 2027* presents the community endorsed vision and strategic plan for Narrabri Shire which was prepared in 2017 and relates to the entirety of the Narrabri Local Government Area.

The Strategic Plan's vision is "*Narrabri Shire will be a strong and vibrant regional growth centre providing a quality living environment for the entire Shire community.*"

The *Strategic Plan* estimates that tourism related output to Narrabri Shire was estimated at \$51 million in 2016, generated by local businesses and organisations servicing tourist demand in the Narrabri Shire.

The *Strategic Plan* promotes the development of partnerships with the community, government and non-government agencies to work towards achieving social outcomes that includes:

- *Increased community arts, events and entertainment.*

This planning proposal does not directly relate to any provisions or outcomes of the *Strategic Plan*, 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 economic development and tourism in the Narrabri LGA by promoting and expanding on nature-based adventure and cultural tourism linked to the areas natural and scenic qualities as well as providing an opportunity for local businesses to market goods and services. This in turn will further encourage the Narrabri LGA 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.

MCP SEPP was made to ensure that such things as the demolition of buildings, subdivision of land the conversion of fire alarm systems were matters that required development consent. The MCP SEPP makes these forms of development require consent across NSW.

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 the clause of the MCP SEPP.

It is understood that the Department of Planning and Environment is reviewing SEPPs to simplify and modernise 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 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 closed and now being considered.

Narrabri LEP 2012 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 28 days in any period of 12 months.

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

The Minister for Planning issues Local Planning Directions that 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
- Hazard and risk

Each S. 9.1 Ministerial Direction is listed below 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.

<b>S. 9.1 Direction Title</b>	<b>Consistency of Planning Proposal</b>
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. Temporary Events do not require any permanent building works or development that will impact on heritage items of places.

<b>S. 9.1 Direction Title</b>	<b>Consistency of Planning Proposal</b>
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	The planning proposal will retain the provisions of the principle LEP which provides for this use without consent in most circumstances.
3.4 Integrating Land Use 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 directly affect provisions relating to flood prone land. Flood policy would continue to be enforced on flood-prone land.
4.4 Planning for Bushfire Protection	The planning proposal would not affect existing bushfire planning provisions. These provisions would continue to be enforced for developments on bushfire prone land.
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	Consistent.
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.

<b>S. 9.1 Direction Title</b>	<b>Consistency of Planning Proposal</b>
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: SECTION 9.1 MINISTERIAL DIRECTIONS AND CONSISTENCY WITH THIS PLANNING PROPOSAL

## **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 or ecological communities of 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 that will 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?**

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.

The potential for and continuation of existing successful events to be held in the Narrabri Shire LGA will encourage direct and in-direct economic benefits to the region. The events also provide an opportunity for local producers and craftsperson's to market their products which benefits a wide variety of industries.

## **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 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**

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This planning proposal is limited to amendment to the written instrument only and no mapping changes are proposed. Narrabri LEP 2012 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**

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In accordance with the *NSW Department of Planning Guidelines to preparing LEP's*, 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.narrabri.nsw.gov.au/>

Public exhibition will be carried out in accordance with the requirements of the EPA Act, EPA Regulations and the Gateway Determination.

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## PART 6: PROJECT TIMELINE

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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	October 2018
Gateway Determination issued by the Department of Planning and Environment	November 2018
Completion of technical assessment	November 2018
Public exhibition of the planning proposal and any required consultation with any public authorities	January-February 2019
Consideration of any submissions received made during public notification/consultation	February 2019
Refer proposal to Parliamentary Counsel and obtain Opinion	March 2019
Determination to make the LEP and notification of the LEP on legislation website	April 2019

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