

PLANNING PROPOSAL

Special Events

2 October 2015

1 INTRODUCTION

North Sydney Council (Council) has prepared a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013).

The primary intent for the Planning Proposal is allow '*special events (including markets)*' held by or behalf of the Council, or on land owned or managed by the Council, be exempt from obtaining development consent, provided it is in accordance with a permit issued by the Council. In particular, the proposed amendment seeks to insert a new provision into *Schedule 2 – Exempt Development* of NSLEP 2013 to identify '*special events (including markets)*' as a form of 'exempt development'.

The need for the Planning Proposal has arisen from a Council initiated review of its regulatory framework relating to events. The primary intention of the review is to streamline the current approvals process, as the need to obtain development consent and its associated processes has been a discouraging factor for event organisers.

The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) and the Department of Planning and Environment's (DPE) document "*A guide to preparing planning proposals*" (October 2012).

2 BACKGROUND

On 16 March 2015, Council's relevant Managers and Directors endorsed a proposal to review its regulatory framework relating to the running of events. The initiative sought to address the complexity of the approval processes required to be undertaken for events, which resulted in a lost opportunity for Council to host the 2015 Red Bull Billy Cart Race.

Council's regulatory framework has at times created difficulties for groups including Council, wishing to conduct events in the North Sydney Local Government Area (LGA). There have been recent examples of proposals to host events within the North Sydney LGA, which have met unnecessary regulatory hurdles that have required the expenditure of significant investments in time and resources. Council recognises that these regulatory hurdles have the potential to dissuade future groups from considering the North Sydney LGA as a suitable venue.

Attracting events to North Sydney is a key objective of North Sydney Council's 'Delivery Program.' Events play a vital role in activating public spaces, building social networks, encouraging community participation, and creating opportunities for local economic growth. North Sydney Council actively conducts, partners and supports a variety of events throughout the year, including Light the Night, Spring Cycle, Children's Festival, Seven Bridges Walk, Spring Into Jazz concerts and Twilight Food Fair.

In accordance with the resolution of the Managers and Directors meeting of 16 March 2015, a Practice Control Group (PCG) was established to formulate a proposal to achieve a more streamlined approval process for event organisers. In particular, it was proposed that a report be presented to Council recommending the endorsement of a Planning Proposal to identify those instances when events on public land may be 'exempt' from the need to obtain development consent, provided it is in accordance with a permit issued by the Council.

In addition, the PCG has prepared a supplementary 'Events Guideline' to help navigate event organisers through the relevant regulatory requirements. These guidelines are to be publically exhibited concurrently with this Planning Proposal.

3 SITE LOCALITY

The Planning Proposal relates to all land included in the Land Application Map to NSLEP 2013 (refer to Figure 1). However, it will generally be limited to:

1. land zoned *RE1 – Public Recreation*;
2. all public roads; and
3. other Council owned property such as community centres, sports facilities and the like.

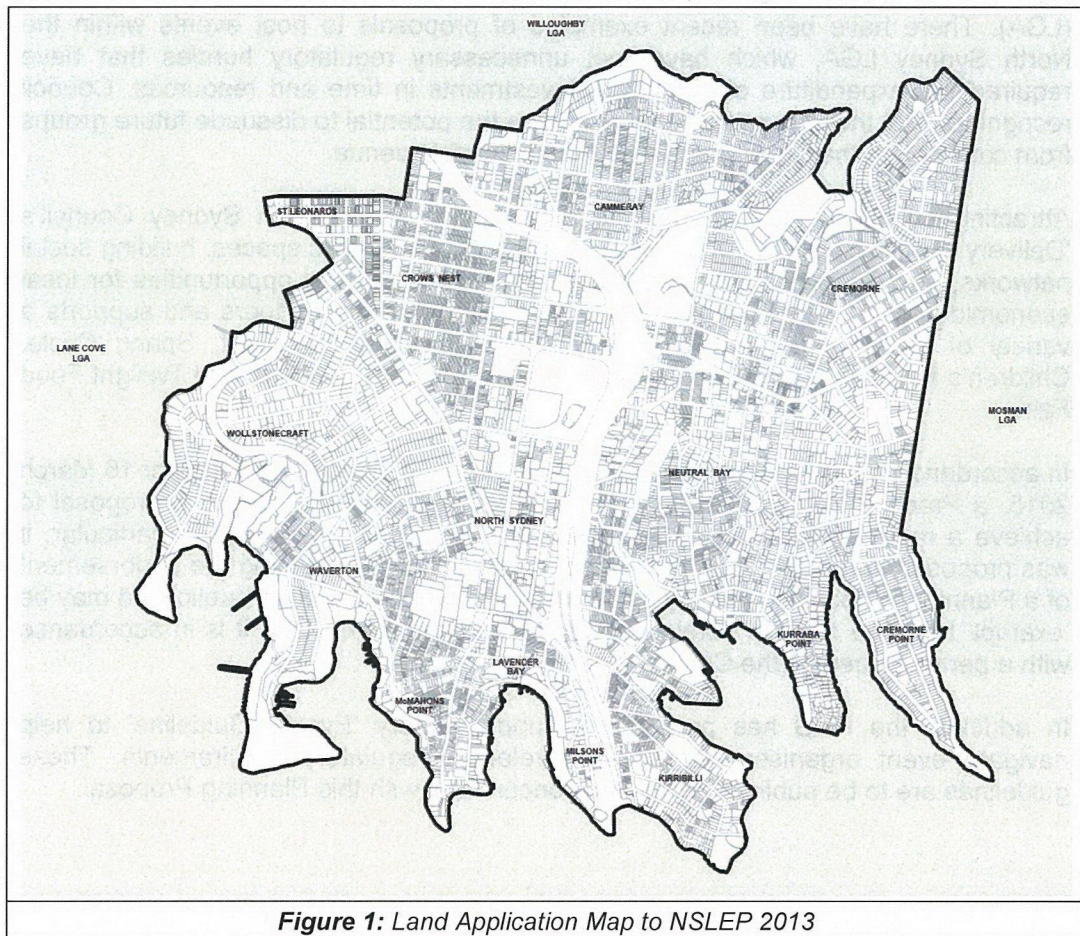


Figure 1: Land Application Map to NSLEP 2013

4 STATUTORY CONTEXT

The Planning Proposal applies to all public land located in all zones. This includes land containing items of heritage significance.

The key statutory provisions that relate to the Planning Proposal are discussed in the following subsections.

4.1 NSLEP 2013

NSLEP is the principle planning instrument that applies to the land subject to the Planning Proposal. The relevant sections of NSLEP 2013 are considered in the following subsections.

4.1.1 Temporary Uses

Clause 2.8 of NSLEP 2013 sets out the criteria that must be taken into consideration by a consent authority when determining a development application for the temporary use of land in any zone, and states:

- (1) *The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*
- (3) *Development consent must not be granted unless the consent authority is satisfied that:*
 - (a) *the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
 - (b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
 - (c) *the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
 - (d) *at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*
- (4) *Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.*
- (5) *Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).*

4.1.2 Exempt Development

Clause 3.1 of NSLEP 2013 sets out when a specific use, can be carried out without the need for development consent, and states:

Note. *Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.*

The section states that exempt development:

- (a) *must be of minimal environmental impact, and*

- (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the [Threatened Species Conservation Act 1995](#) or the [Fisheries Management Act 1994](#)), and
 - (c) cannot be carried out in a wilderness area (identified under the [Wilderness Act 1987](#)).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
 - (3) To be exempt development, the development:
 - (a) must meet the relevant deemed-to-satisfy provisions of the Building Code of Australia or, if there are no such relevant provisions, must be structurally adequate, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the Building Code of Australia, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the [Heritage Act 1977](#) or that is subject to an interim heritage order under the [Heritage Act 1977](#).
 - (4) Development that relates to an existing building that is classified under the Building Code of Australia as class 1b or class 2–9 is exempt development only if:
 - (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.
 - (5) To be exempt development, the development must:
 - (a) be installed in accordance with the manufacturer's specifications, if applicable, and
 - (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

Note. A permit for the removal or pruning of a tree or other vegetation may be granted under this Plan. A development consent for the removal of native vegetation may be granted where relevant under the [Native Vegetation Act 2003](#).
 - (6) A heading to an item in Schedule 2 is part of that Schedule.

4.1.3 Schedule 2 – Exempt Development

Schedule 2 to NSLEP 2013 identifies all the types of development that are exempt development and the relevant criteria for those types of development to be exempt. The notes to the schedule state:

Note 1. [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) specifies exempt development under that Policy. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy.

Note 2. Exempt development may be carried out without the need for development consent under the Act. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

4.2 SEPP (Exempt and Complying Development Codes) 2008

The Codes SEPP contains provisions relating to the instances when certain types of development can be undertaken as exempt or complying development. In particular, it contains a number of provisions relating to temporary uses and structures.

Clauses 2.125 – 2.128 states that development for the purposes of a community event, a commercial event, or trading for retail or other commercial purposes on

major events sites identified under the Act, may be undertaken as 'exempt' development.

In addition, the Codes SEPP contains provisions which exempt the need for development consent to be obtained for some temporary uses such as filming (Clause 2.113 -2.114) and a number of temporary structures related to filming activities and community events, such as tents, marquees or booths (Clause 2.117-2.120) and stages or platforms (Clause 2.123-2.124).

4.3 Local Government Act (LG Act) 1993

4.3.1 Approvals

Clause 68 of the LG Act 1993 requires that a person obtain Council approval for a variety of works. In particular, Part D states that prior approval is required for a person to carry out any of the following activities on 'community land':

- 1 engage in a trade or business*
- 2 direct or procure a theatrical, musical or other entertainment for the public*
- 3 a temporary enclosure for the purpose of entertainment*
- 4 for fee or reward, play a musical instrument or sing*
- 5 set up, operate or use a loudspeaker or sound amplifying device*
- 6 deliver a public address or hold a religious service or public meeting*

However, the need to obtain 'prior approval' is not required in so far as the Act, the regulations or a local policy adopted under Part 3 allows that activity to be carried out without that approval.

4.3.2 Plans of Management

Clause 35 of the LG Act 1993 states that consideration may be required to be given to any relevant Plan of Management where an event is to be undertaken on 'community land'.

4.4 Crown Lands Act 1989

The Crown Lands Act 1989 sets out the processes for the assessment, management, development and regulation of Crown Land. The Act outlines the duties, rights and responsibilities of the Minister and/or delegated authorities with vested control of Crown Land.

4.5 Roads Act 1993

The Roads Act 1993 identifies the relevant statutory authorities responsible for the regulation, control and management of public roads. The Act also sets out the various public rights to public roads and the procedures that apply for certain activities, such as the temporary closure of public roads.

5 THE PLANNING PROPOSAL

5.1 PART 1: STATEMENT OF OBJECTIVES

The primary intent of the Planning Proposal is to allow 'special events (including markets)' held by or behalf of the Council, or on land owned or managed by the Council, be exempt from obtaining development consent, provided it is in accordance with a permit issued by the Council.

5.2 PART 2: EXPLANATIONS OF PROVISIONS

The intent of the Planning Proposal is proposed to be achieved by inserting a new provision into *Schedule 2 – Exempt Development* of NSLEP 2013 as follows: (blue underline represents an insertion):

Schedule 2 Exempt Development

Note 1. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 specifies exempt development under that Policy. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy.

Note 2. Exempt development may be carried out without the need for development consent under the Act. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

Special events (including markets)

If held by or on behalf of the Council or on land owned or managed by the Council, must be in accordance with a permit issued by the Council.

Note 1. Events that do not involve the erection of a temporary structure, the erection of an amusement device or disruption to normal traffic and pedestrian flows and are events for which the land has been designed do not require development consent. (For example, family picnics, regular sports training or games, casual exercise and passive enjoyment of a park).

Note 2. The Local Government Act 1993 may also apply, including provisions relating to Plans of Management and Alcohol Free Zones.

5.3 PART 3: JUSTIFICATION

5.3.1 Section A – Need for the planning proposal

1. *Is the planning proposal a result of any strategic study or report?*

No. The need to amend NSLEP 2013 has arisen from a Council initiative to review its regulatory framework relating to the running of events. The initiative was in response to recent examples of worthwhile public events being attracted to North Sydney and being dissuaded by the lack of clarity, transparency and overall complexity of the approvals process.

In particular, Council's Project Control Group (PCG) recommended streamlining the approvals process by proposing events on public land be identified as 'exempt' development, provided it is in accordance with a permit issued by the Council. The PCG also formulated a supplementary 'Events Guideline' document, to help navigate event organisers through the often complex regulatory requirements. These guidelines will be publically exhibited concurrently with this Planning Proposal.

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

Yes. There are potentially three options that could be pursued to address the intent of the Planning Proposal, including:

1. Inserting a new provision under Schedule 2 of NSLEP 2013, as proposed;
2. Amending Clause 2.125 of the Codes SEPP to include land identified within the North Sydney LGA; and
3. Inserting a new stand alone provision in the Codes SEPP, stating that development for the purposes of a '*special event (including markets)*', held by or on behalf of the Council, or on land owned or managed by the Council, be 'exempt' development, provided it is in accordance with a permit issued by the Council.

Each of these options is discussed in detail below.

Option 1 – Insert new provision in Schedule 2 of NSLEP 2013 (Preferred)

This option involves inserting a new provision into Schedule 2 of NSLEP 2013, stating that development for the purposes of a '*special event (including markets)*', held by or on behalf of the Council, or on land owned or managed by the Council is 'exempt' development, provided it is in accordance with a permit issued by the Council.

Temporary events are currently required to obtain development consent under Clause 2.8 of NSLEP 2013 (refer to section 4.1.1 of this report). The Clause sets out a number of criteria that must be taken into consideration by a consent authority when determining an application for the temporary use of land.

Under North Sydney's current regulatory framework for events (refer to Figure 2), there are a number of duplicate approval processes for the temporary use of land. Consequently, the current steps in the system to gain approval have not always been user friendly or transparent, and often require significant

investments of time and resources to work through the permissibility and approval process.

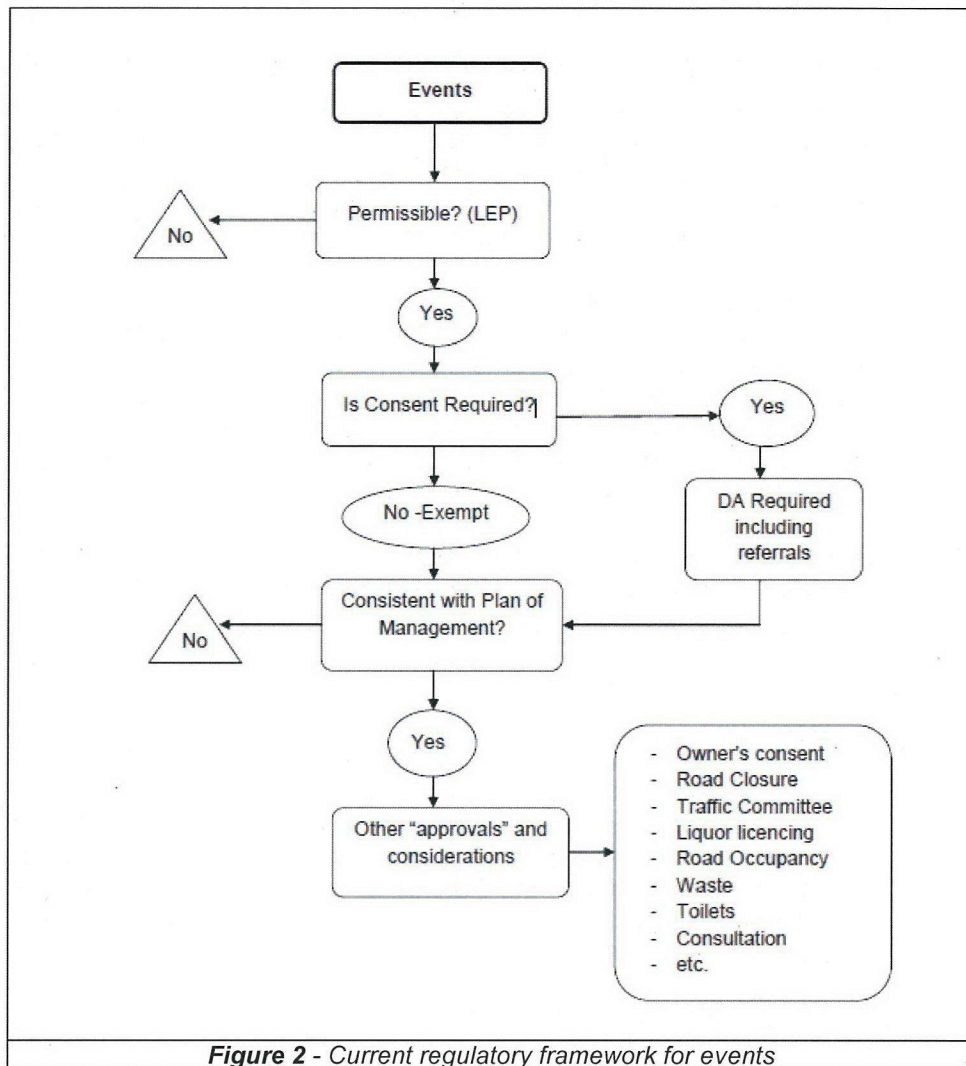
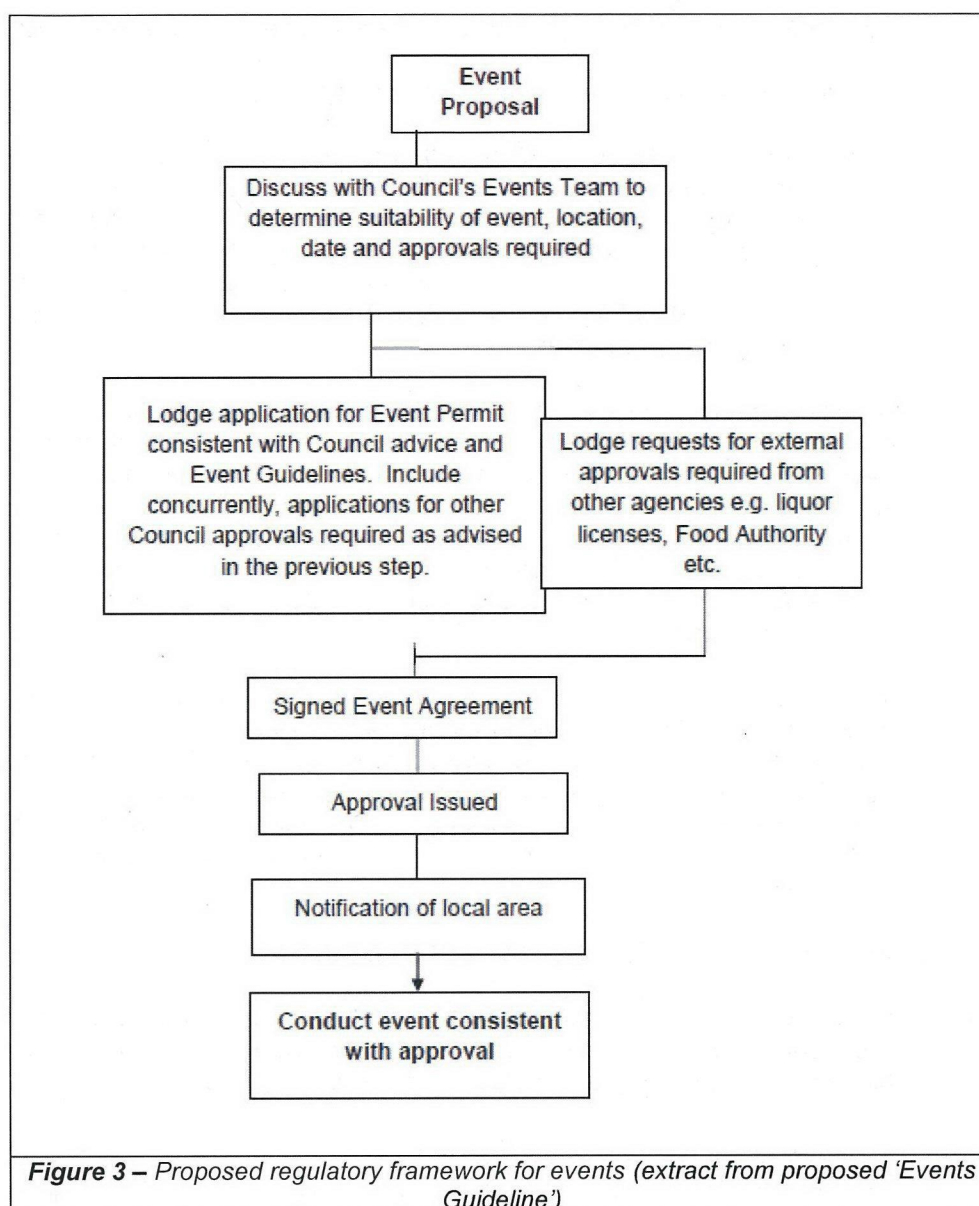


Figure 2 - Current regulatory framework for events

The primary intent of the Planning Proposal is to effectively streamline the approvals process for events on public land in North Sydney without undermining the necessary checks and balances associated with their assessment (refer to Figure 3). The proposed exemption would only apply to public land and still enable Council to retain the power to require a permit to conduct activities on public land. Therefore Council will continue to play an assessment role, albeit, in a less formal manner than a development application.



The exemption of 'special events' has been endorsed by the Department of Planning and Environment (DPE) on a previous occasion in respect to Ku-ring-gai LEP 2015. Option 1 of this Planning Proposal intends to replicate the same provisions adopted under Schedule 2 of Ku-ring-gai LEP 2015, as it relates to the exemption of events on public land only.

Option 1 is preferred as it is the simplest means of satisfying the primary intent of the Planning Proposal.

Option 2 – Amend SEPP (Exempt and Complying Development) 2008

This option involves amending the Codes SEPP by either:

- (a) amending Clause 2.125 such that it applies to land identified within the North Sydney Local Government Area (LGA); or
- (b) inserting a new stand alone provision stating that development for the purposes of a '*special event (including markets)*', held by or on behalf of the Council, or on land owned or managed by the Council, be '*exempt*' development, provided it is in accordance with a permit issued by the Council.

An amendment to the Codes SEPP falls outside Council's powers, as it can only be amended by the State Government. Whilst a request could be put forward by Council, it is uncertain whether such an amendment could be supported. Notwithstanding, whilst these options could achieve the primary intent of the Planning Proposal without imposing an amendment to NSLEP 2013, options 2(a) and 2(b) are not supported as they do not provide Council with sufficient flexibility to respond to future development scenarios concerning events on its land.

In particular, if option 2(a) were pursued Council would be obligated to enforce the development standards outlined in Clause 2.126. These controls are restrictive in nature as they only accommodate events on major sites and not all of Council's land and facilities constitute a major events site. If option 2(b) were pursued the stand alone provision would apply to all LGAs and not all Council's may wish to endorse the same policy position as North Sydney on managing its events.

5.1.1 Section B – Relationship to strategic planning framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

A Plan for Growing Sydney (2014)

Released in December 2014, *A Plan for Growing Sydney* (Metropolitan Plan) sets the planning framework for the growth of the Sydney metropolitan area over the next 25 years. The Metropolitan Plan sets targets for an additional 664,000 homes and 689,000 jobs by 2031.

There are no specific Directions and Actions identified in the Metropolitan Plan which are relevant to the Planning Proposal. Despite the absence of any relevant Directions or Actions, the Planning Proposal will not prevent the attainment of the goals aims of the Metropolitan Plan.

Draft Inner North Subregional Strategy

In July 2007, the NSW Government released the draft Inner North Subregional Strategy (draft INSS). The North Sydney LGA is located within the Inner North subregion with the other LGAs of Lane Cove, Ryde, Willoughby, Hunters Hill and Mosman. The Draft INSS sets targets of an additional 5,500 homes and 15,000 jobs by 2031 for the North Sydney LGA.

Directions and Actions identified in the draft INSS which are relevant to the Planning Proposal are as follows:

- Direction F2 – Provide a diverse mix of parks and public open spaces.
 - Action F2.1 – Improve the quality of local open space.

The Planning Proposal is considered to be consistent with the above direction and action as it will encourage greater use of local open spaces and provide opportunities to enhance the quality of local open spaces, particularly in centres and along transport corridors where urban and residential growth is being located.

North Sydney Local Development Strategy (2009):

Adopted in June 2011, North Sydney Local Development Strategy (NSLDS) is a translation of the strategic vision for North Sydney Council as identified in the Metropolitan and Subregional strategies. It adopts the same Directions and Actions as the draft INSS and the Metropolitan Plan.

The Planning Proposal is considered to be consistent with the relevant Directions and Actions of the NSLDS.

4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

North Sydney Council Delivery Program 2010/11-2013/14

The North Sydney Council Delivery Program 2010/11-2013/14 (Delivery Program) was prepared in accordance with NSW State Government's Integrated Planning and Reporting Framework requirements. The Delivery Program outlines Council's priorities and service delivery programs over four years, set out under five key Directions.

The directions and goals of the Delivery Program which are relevant to the Planning Proposal are as follows:

Direction: 2 Our Built Environment

Outcomes: 2.3 Vibrant, connected and well maintained streetscapes and villages that build a sense of community.

Direction: 3 Our Economic Vitality

Outcomes: 3.1 Diverse, strong, sustainable and vibrant local economy.

Outcomes: 3.3 North Sydney is a place that attracts events.

Direction: 4 Our Social Vitality

Outcomes: 4.1 Community is connected.

Outcomes: 4.3 Enhanced arts and cultural programs and facilities.

Outcomes: 4.7 Community is active and healthy.

Outcomes: 4.8 Enhanced community safety and accessibility

The Planning Proposal will allow these directions and outcomes to be pursued in a robust and strategic manner.

5. *Is the planning proposal consistent with applicable state environmental planning policies?*

The Planning Proposal is consistent with those State Environmental Planning Policies (SEPPs) which are relevant to the North Sydney LGA, as demonstrated in TABLE 1.

TABLE 1: Consistency with SEPPs		
Direction	Consistency	Comment
SEPP No. 1 – Development Standards	N/A	This SEPP does not apply pursuant to Clause 1.9 of NSLEP 2013.
SEPP No. 19 - Bushland in urban areas	YES	The Planning Proposal does not seek to reduce any bushland protection standards applying to land or adjacent land containing bushland.
SEPP No. 32 - Urban consolidation (redevelopment of urban land)	N/A	This SEPP does not apply as the Planning Proposal does not seek to alter the land use permissibility of any land to which the Planning Proposal relates.
SEPP No. 33 - Hazardous and offensive development	N/A	This SEPP does not apply as the Planning Proposal does not relate to land upon which hazardous and offensive development is permitted.
SEPP No. 50 - Canal estate development	YES	The Planning Proposal is consistent with the SEPP as it does not seek to permit canal estate development anywhere within the LGA.
SEPP No. 55 - Remediation of land	N/A	This SEPP does not apply as the Planning Proposal does not seek to alter the land use permissibility of any land to which the Planning Proposal relates.
SEPP No. 64 - Advertising and signage	YES	The Planning Proposal is consistent with the SEPP as it does not affect the attainment of the SEPP's aims and objectives.
SEPP No. 65 - Design Quality of Residential Flat Development	N/A	This SEPP does not apply as the Planning Proposal does not relate to residential flat development.
SEPP (Affordable Rental Housing) 2009	N/A	This SEPP does not apply as the Planning Proposal does not relate to residential development.
SEPP (Building Sustainability Index: BASIX) 2004	N/A	This SEPP does not apply as the Planning Proposal does not relate to residential building sustainability.
SEPP (Exempt and Complying Development Codes) 2008	YES	The Planning Proposal is consistent with the SEPP as it does not affect the attainment of the SEPP's aims and objectives.
SEPP (Housing for Seniors or People with a Disability) 2004 - <i>formerly SEPP (Seniors Living) 2004</i>	N/A	This SEPP does not apply as the Planning Proposal does not relate to residential development.
SEPP (Infrastructure) 2007	YES	The Planning Proposal is consistent with the SEPP as it does not affect the attainment of the SEPP's aims and objectives.
SEPP (Major Development) 2005 - <i>formerly SEPP Major Projects & SEPP State Significant Development</i>	YES	The Planning Proposal is consistent with the SEPP as it will not impede the attainment of the aims and objectives of this SEPP.

TABLE 1: Consistency with SEPPs		
Direction	Consistency	Comment
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	YES	The Planning Proposal is consistent with the SEPP as it will not impede the attainment of the aims and objectives of this SEPP.
SEPP (Miscellaneous Consent Provisions) 2007 - <i>formerly SEPP (Temporary Structures) 2007</i>	YES	The Planning Proposal is consistent with the SEPP as it does not affect the attainment of the SEPP's aims and objectives.
SEPP (State and Regional Development) 2011	N/A	This SEPP does not apply as the Planning Proposal does not relate to state significant or regional development or the operation of joint regional planning panels.
Sydney REP (Sydney Harbour Catchment) 2005	YES	The Planning Proposal is consistent with the SEPP as it will not impede the attainment of the aims and objectives of this SEPP.

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

The Planning Proposal is consistent with the relevant Directions issued under Section 117(2) of the EP&A Act by the Minister to Councils, as demonstrated in TABLE 2.

TABLE 2: Consistency with s.117 Directions		
Direction	Consistency	Comment
1. Employment and Resources		
1.1 Business & Industrial Zones	N/A	This Direction does not apply as the Planning Proposal does not seek to reduce any commercial or industrial zoning under NSLEP 2013 nor does it seek to reduce the level of permissible non-residential floor space achievable on the affected lands.
1.2 Rural Zones	N/A	This Direction does not apply as there are no existing rural zones under NSLEP 2013 or proposed under the Planning Proposal.
1.3 Mining, Petroleum Production & Extractive Industries	YES	The Planning Proposal does not seek to alter the permissibility of these types of land uses.
1.4 Oyster Aquaculture	N/A	This Direction does not apply as the Planning Proposal does not propose any changes in land use.
1.5 Rural Lands	N/A	This Direction does not apply as the Planning Proposal does not relate to land identified under the SEPP (Rural Lands) 2008.

TABLE 2: Consistency with s.117 Directions		
Direction	Consistency	Comment
2 Environmental Heritage		
2.1 Environmental Protection Zones	YES	The Planning Proposal does not seek to alter the existing provisions within NSLEP 2013 that relate the protection and conservation of environmentally sensitive areas, which already satisfy the requirements of the Direction.
2.2 Coastal Protection	N/A	This Direction does not apply as the Planning Proposal does not affect land within a coastal zone.
2.3 Heritage Conservation	YES	The Planning Proposal does not alter the existing heritage conservation provisions within NSLEP 2013, which already satisfy the requirements of the Direction.
2.4 Recreation Vehicle Areas	N/A	The Planning Proposal does not enable land to be developed for the purposes of a recreational vehicle area.
3 Housing, Infrastructure & Urban Development		
3.1 Residential Zones	N/A	This Direction does not apply as the Planning Proposal does not seek to reduce any residential zoning under NSLEP 2013, nor does it seek to reduce the residential development potential on any site.
3.2 Caravan Parks & Manufactured Home Estates	N/A	The Planning Proposal does not seek to permit caravan parks or manufactured home estates under NSLEP 2013.
3.3 Home Occupations	N/A	The Planning Proposal does not seek to alter the existing provisions within NSLEP 2013 that relate to home occupations, which already satisfy the requirements of the Direction.
3.4 Integrating Land Use & Transport	YES	The Planning Proposal is considered to be consistent with the aims objectives and principles of <i>“Improving Transport Choice – Guidelines for planning and development”</i> and <i>“The Right Place for Business and Services – Planning Policy”</i> as it will not impede the attainment of the aims and objectives of this Direction.
3.5 Development Near Licensed Aerodromes	N/A	The Planning Proposal does not relate to land in the vicinity of a licensed aerodrome nor does it propose to amend a height limit that exceeds the Obstacle Limitation Surface level that applies to the North Sydney LGA.
3.6 Shooting Ranges	N/A	The Planning Proposal does not relate to land in the vicinity of a shooting range.
4 Hazard and Risk		
4.1 Acid Sulfate Soils	N/A	The Planning Proposal does not relate to land affected by Acid Sulfate Soils.

TABLE 2: Consistency with s.117 Directions		
Direction	Consistency	Comment
4.2 Mine Subsidence & Unstable Land	N/A	This Direction does not apply as the Planning Proposal does not relate to land affected by mine subsidence nor has it been identified as being unstable land.
4.3 Flood Prone Land	N/A	This Direction does not apply as the Planning Proposal does not relate to land identified as being flood prone land.
4.4 Planning for Bushfire Protection	YES	It is considered that the Planning Proposal is consistent with the Direction in so far that it will not introduce permanent uses on land which is at risk of bushfires. The Planning Proposal will be referred to the Rural Fire Service (RFS) as part of the Directions requirements.
5 Regional Planning		
5.1 Implementation of Regional Strategies	N/A	This Direction does not apply as the Planning Proposal does not relate to land affected by one of the identified strategies.
5.2 Sydney Drinking Water Catchment	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast.	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast.	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
5.8 Second Sydney Airport: Badgerys Creek	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
6 Local Plan Making		
6.1. Approval & Referral Requirements	YES	The Planning Proposal does not alter any concurrence, consultation or referral requirements under NSLEP 2013, nor does it identify any development as designated development.
6.2 Reserving Land for Public Purposes	N/A	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	YES	The Planning Proposal is considered to be consistent with this direction as it does not seek impose any development standards or requirements in addition to those already contained in the relevant zones or the principal EPI.
7 Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	YES	Refer to question 3 of section 4.8.2 of this report.

5.1.2 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 Planning Proposal relates to all public land in all zones, including land in environmental conservation zones, which may potentially contain critical habitat or threatened species, populations or ecological communities, or their habitats. However, the likelihood of any adverse impact occurring to land in environmental conservation zones as a result of the Planning Proposal is very low as Clause 3.1(b) of NSLEP prohibits 'exempt' development from being carried out on land containing critical habitats of endangered species, populations or ecological communities, or in wilderness areas. Furthermore, the likelihood of any adverse impacts occurring in public land classified as 'community land' is very low due to the bearing of any relevant Plan of Management.

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

The Planning Proposal merely seeks to enable current activities that are permissible with consent, be identified as 'exempt development'. The likelihood of any adverse environmental impacts resulting from the Planning Proposal alone is very low as Clause 3.1(a) of NSLEP 2013 prevents development that is not of minimal environmental impact from being 'exempt' development.

In cases where an event does not satisfy the requirements of Clause 3.1, the development will be subject to a merit assessment. A merit assessment will ensure that development consent is not granted where a temporary use is likely to have an adverse environmental impact on the land. In particular, Clause 2.8(3)(c) of NSLEP 2013 states that development consent must not be granted for the temporary use of land in any zone unless the consent authority is satisfied that it will not adversely impact on environmental attributes or features of the land.

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

The primary intent of the Planning Proposal is to simplify the current approvals process relating to events on public land. A simplified approvals process will potentially encourage the attraction of more events to North Sydney, which will ultimately deliver significant social and economic benefits to North Sydney. Events will provide an opportunity to activate public spaces, revitalise the CBD, optimise the use of Council resources, encourage community participation, build social networks, support local businesses and promote economic development.

Whilst the attraction of events may create significant social and economic benefits, it may also cause adverse impacts in terms of noise, traffic and pedestrian flows. Council has prepared supplementary guidelines which seek to minimise any adverse impacts as a result of an event. These guidelines are being publically exhibited concurrently with this Planning Proposal.

5.1.3 Section D – State and Commonwealth interests

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

The Planning Proposal does not seek to increase the developable yield on any site. It is therefore considered that the Planning Proposal will not increase the demand for public infrastructure.

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

The Planning Proposal has not yet been considered by State or Commonwealth public authorities. Views of the State will be gained through the Gateway Determination process if required.

The Planning Proposal will be required to be referred to the RFS in accordance with Direction 4.4 of the s.117 Directions.

5.2 PART 4 : MAPPING

The Planning Proposal does not require the replacement of any maps to NSLEP 2013.

5.3 PART 5: COMMUNITY CONSULTATION

Consultation will be undertaken in accordance with the requirements made by the Gateway Determination and Council's guidelines.

5.4 PART 6: PROJECT TIMELINE

TABLE 3 provides a project timeline having regard to identified milestones and estimating approximately 7 months from submitting the proposal to the DPE to the amending LEP being made.

TABLE 3 – Project Timeline							
Milestone	Oct - 2015	Nov - 2015	Dec - 2015	Jan - 2016	Feb - 2016	Mar - 2016	Apr - 2016
1. Request for Gateway Determination sent to DPE							
2. DPE considers Request							
3. Gateway Determination Issued to Council							
4. Public Exhibition Undertaken							
5. Council considers post exhibition report							
6. Submission to DPE requesting making of LEP							
7. Drafting of LEP and making							

Attachment 4 – Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:

North Sydney Council

Name of draft LEP:

Planning Proposal - Special Events

Address of Land (if applicable):

North Sydney Local Government Area

Intent of draft LEP:

To identify 'Special Events (including markets),' held by or on behalf of Council, or on land owned or managed by the Council, as a form of exempt development.

Additional Supporting Points/Information:

Refer to attached Planning Proposal.



Evaluation criteria for the issuing of an Authorisation				
(NOTE - where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N/A			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	N			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?	N/A			
Is the planning proposal proposed to rectify an anomaly in a classification?	N/A			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?	N/A			
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?	N/A			

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?	N/A			
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?	N/A			
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	N/A			
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N/A			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N/A			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N/A			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	N/A			
Does the planning proposal create an exception to a mapped development standard?	N/A			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	N			
NOTES - Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. - Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.				