



MIDCOAST
council

Revised Planning Proposal to amend the Gloucester Local Environmental Plan 2010

Temporary Events (Exempt Development)

Prepared by:

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Version	Purpose of Document	Author	Date
1	For Gateway Determination (For Short Term Holiday Letting and Temporary Events)	AK	July 2015
2	Altered as per Requirements of Gateway Determination For Public Agency Consultation	AK	8 September 2015
3.1	Revised Planning Proposal Proceed with Short Term Holiday Letting (SHTL) separately seeking Altered Gateway Determination	AK	13 January 2016
3.2	Revised Planning Proposal For Public Exhibition of Temporary Events	AK	13 January 2016
4	Revised Planning Proposal For further Public Agency Consultation of SHTL	AK	17 March 2016
5	Revised Planning Proposal seeking Parliamentary Counsel's Opinion	AK	3 May 2016
6	Revised Planning Proposal Recombined for both Temporary Events and SHTL Clauses For Public Exhibition of SHTL	AK	15 June 2016
7	Revised Planning Proposal Seeking Drafting of LEP	AK	7 July 2016
8.1	Revised Planning Proposal Seeking Amended Gateway Determination for Temporary Events	AK	16 June 2017
8.2	For Parliamentary Counsel	AK	21 August 2017

PREAMBLE

A Planning Proposal was submitted to the NSW Planning Office seeking for Gateway Determination in July 2015. The Planning Proposal was in two (2) parts, to be undertaken concurrently, and proposed to provide provisions for:

- A. The use of dwellings for short term holiday accommodation; and
- B. Temporary events.

A Gateway Determination was issued on behalf of the Minister for Planning 4 September 2015 (Department NSW Planning Ref. No.: 15/11219) with Conditions also authorising Council to exercise its delegations for this Planning Proposal.

As a result of the Gateway Determination Conditions an amended Planning Proposal was prepared and submitted to the relevant State Agencies for referral.

As a part of the referral process the New South Wales Rural Fire Service (NSWRFS) have expressed concern of providing exemptions for Short-Term Holiday letting (SHTL) within existing dwellings on bushfire prone land. This has been a consistent theme of considering SHTL clauses state wide which as resulted in unresolved objections at the Parliamentary Counsel stage for LEP Drafting. This has resulted in a NSW Parliamentary Enquiry into the Adequacy of Regulation of Short Term Holiday Letting for which a final report was released 19 April 2017. The Department will soon release an options paper to assist in determining a consistent approach for dealing with short term holiday accommodation facilities.

The above developments have resulted in unexpected delays of the Planning Proposal as a whole hindering the progressing of the proposed Clause for Temporary Events. Council has recently received a Gateway Alteration dated 17 May 2017 that removes Council's Plan making delegations for any Clause associated with Short-term Holiday Letting. Subsequent advice from the Department has resulted in Council, as part of this Proposal, deferring the SHTL component of the Proposal under s59(4) of the Environmental Planning and Assessment Act 1979 and proceeding with the Temporary Events component.

Council received a further Altered Gateway Determination dated 14 August 2017 confirming the deferral of the Short-term Holiday Accommodation component re-instating the written authorisation for Council to exercise its delegation in finalising the component for Temporary Events.

INTRODUCTION

The Planning Proposal has been prepared by the Gloucester Office of MidCoast Council in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the relevant Department of Planning and Environment (Department) Guidelines, including A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals.

This Planning Proposal proposes to provide provisions for certain Exemptions covering Temporary Events.

This Planning Proposal outlines the effect of, and justification for the changes to existing planning controls provided for under the *Gloucester Local Environmental Plan 2010*.

At its meeting 15 July 2015 the former Gloucester Shire Council resolved to undertake a Planning Proposal for this Item. Further Council resolutions have been made to this item following the original Gateway Determination dated 4 September 2016 and in addition to Council's final resolution for this Clause to be Drafted and made following Public Exhibition. The Reports and subsequent minutes of these items are included in Appendices A through to D.

A Gateway Alteration dated 14 August 2017 also refers.

The proclamation of 12 May 2016 ratified the merger of the Local Government Areas of Gloucester Shire, Greater Taree and Great Lakes Council into Midcoast Council. The *Gloucester LEP 2010* still stands as a separate environmental planning instrument.

Council advises that the Public Agency Consultation and Public Exhibition of the Planning Proposal for Temporary Events have been completed as per the requirements of the original Gateway Determination.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

(s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument)

The following are the objectives and intended outcomes of this Planning Proposal:

- (i) To enable certain Temporary Events and development associated with Temporary Events on public reserves and public roads to be undertaken without Development Consent;
- (ii) To remove duplication of approvals processes under the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 as it relates to Temporary Events and development associated with Temporary Events.

PART 2 - EXPLANATION OF PROVISIONS

(s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument)

This planning Proposal relates to all land within the Gloucester Shire Local Government Area that is public land or public road.

This planning Proposal seeks to enable special events and development associated with Temporary Events (in certain circumstances, i.e. temporary structures and signage) to be undertaken as Exempt Development.

The planning Proposal intends to enable this by amending the *Gloucester Local Environmental Plan 2010* by insertion of the following Clause 6.5 in Schedule 1, Part 6 – Additional local provisions:

“6.5 Events permitted without development consent

- (1) *The objective of this clause is to provide for the temporary use of public reserves and 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 of a temporary event may be carried out on a public reserve or public road 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 (Temporary Structures) 2007 does not apply to development to which this clause applies.*
- (4) *In this clause:*

public reserve *has the same meaning as in the Local Government Act 1993.*

temporary event *means an exhibition, meeting, concert or other event that is open to the public for which land is used for a period of 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

(s.55(2)(c) Justification for the objectives or intended outcomes and the process for their implementation)

Section A – Need for the Planning Proposal

3.A.1 Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not considered to be linked directly to any study or report. However the need to develop provisions for Temporary Events has been a significant issue in the Gloucester Shire Council.

With its ease of access to Barrington Tops National Park and located in a natural setting close to major regional centre the Gloucester area is home, and has been chosen by, many organisations to hold Temporary Events in the Gloucester Shire for both locals and visitors to the region. These events, predominantly organised by non-profit organisations, consist of yearly, biannually, monthly and weekly and daily functions located in public reserves and road corridors.

Such events held in the Gloucester Shire are an integral part of the industry tourism sector and the local economy. The direct and indirect benefits of encouraging more tourists to the region via events are evident through the increased business in the need for tourist accommodation, cafés and eateries and other local businesses associated with these events.

Recently, Gloucester Shire Council proposed to move forward with a Draft Development Control Plan (DCP) for Temporary Events. The Public Exhibition for this Draft DCP has since concluded. Following consideration of the comments received as part of the public exhibition period and stakeholder engagement it has been resolved to discontinue this DCP and seek to remove the Development Consent requirement for Temporary Events in Public Reserves and Roads.

It is noted that a number of Council's, including but not limited to Newcastle, Port Stephens and Great Lakes contain similar provisions within their Standard Local Environmental Plan to this proposed. These provisions have been developed to address the land-use, which is now defined as *"Events permitted without Development Consent"*.

This new Clause will not provide for exemptions for Temporary Events on private lands and as such, Development Consent requirements for such events will remain assessed against Council's existing Guidelines.

3.A.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The current version of the Gloucester Local Environmental Plan 2010 is for 15 August 2014 and does not address this land-use. The Planning Proposal is considered to be the most effective means of permitting Temporary Events within public reserve and roads providing other necessary permits (Local Government Act 1993, Roads Act 1993 etc.) are obtained.

Section B – Relationship to Strategic Planning Framework

3.B.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is essentially a specific localised issue.

3.B.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Council's Community Strategic Plan 2014-2024 is the peak direction document for the Gloucester Shire for the next decade. It builds on the Gloucester Community Strategic Plan 2012/22 which was developed with wide and active community involvement. This review document revisits the aspirations and targets identified in the inaugural Plan and the new financial, social, environmental and economic challenges facing the community.

The Community Strategic Plan 2014-2024 identifies 5 Key Directions. The Planning Proposal is consistent with four (4) of these directions as follows:

Direction 1: Maintaining core infrastructure

The objectives of this direction are to:

- Public assets and infrastructure will be planned, managed and funded to meet agreed levels of service;
- Ensure the road system meets the transport needs of the community;
- Provide an environmentally Sustainable Urban Stormwater System;
- Adopt current best practice for design and maintenance of infrastructure;
- Enhance the economic viability of public infrastructure.

The Planning Proposal for Temporary Events is consistent with this Direction. The Proposal for Development will occur on well-established and developed sites and will thereby have minimal impact on infrastructure.

Direction 2: Protecting the environment

The objectives of this direction are to:

- Provide effective environmental management in the Gloucester Region;

- Manage environmental risks;
- Manage the sustainable disposal of waste; and
- Provide leadership in sustainability.

This Planning Proposal seeks to allow Temporary Events as Exempt Development where they occur on public reserves or roads. It is seen that public reserves and roads are established and have been developed and maintained to a public standard and that such events will cause minimal detrimental harm to the environment. Many such well established Temporary Events have historically been undertaken successfully in the Gloucester Shire in public reserves and road spaces for many years with acceptable impacts.

Direction 3: Creating a strong economy

The objectives of this direction are to:

- Maintaining a comprehensive understanding of the local economy and the context in which it operates;
- Grow employment opportunities through organic growth and attraction of new businesses.
- Effective partnerships and relationships between all economic stakeholders;
- Maintain Council business units to enable broader economic activity;
- Gloucester seen as an attractive business investment and relocation destination;
- Strategies and actions in place to address sustainability and security issues related to local food production;
- Gloucester is seen as an attractive tourist destination.

This Planning Proposal seeks to allow Temporary Events as Exempt Development where they occur on public reserves or public roads. Temporary Events have the capacity to encourage economic developmental and tourism in the Gloucester Shire via showcasing the areas natural and scenic qualities as well as providing a backdrop for local businesses to market goods and services. This will in turn further bolster the Gloucester Shire as an idyllic tourist destination attracting new residents and businesses to the region further aiding economic development opportunities.

Direction 4: an engaged and supportive community

The objectives of this direction are to:

- Ensure a range of affordable, accessible and adaptable housing to suit the needs of the community;
- Support local district health care facilities and service providers;
- Protect public health, safety and amenity;
- Develop opportunities for residents and visitors to enjoy public places;
- Encourage opportunities for lifelong learning with the community;
- Encourage services and facilities to promote community wellbeing.

The Planning Proposal for Temporary Events is consistent with this Direction. Permitting Temporary Events to be undertaken within public reserves and roads as Exempt Development will encourage the use of public spaces and encourage outdoor recreation enhancing community health and wellbeing.

Direction 5: Governance and partnerships

The objectives of this direction are to:

- Ensure sound local governance practice;
- Establish strong partnerships with community groups & government;
- Ensure effective communication to share information and provide services;
- Ensure ongoing financial sustainability.

This Planning Proposals for Temporary Events is consistent with this Direction. The catalyst for the Planning Proposal resulted from public and community expectations, enquiries and extensive stakeholder engagement.

3.B.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

The Planning Proposal is considered to be generally consistent with applicable state environmental planning policies.

3.B.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is considered to be generally consistent with applicable S.117 Ministerial Directions.

A summary of the Planning Proposal's consistency with relevant s.117 Ministerial Directions is provided in Appendix E of this Planning Proposal.

Section C – Environmental, Social and Economic Impact

3.C.1 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 or their habitats.

3.C.2 Are there any other likely 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.

3.C.3 Has the Planning Proposal adequately addressed any social and economic effects?

Social

The Planning Proposal will have positive social and economic effects.

The Clause for the Exemption of Temporary Events will devise a solution to an issue currently causing angst in the Gloucester Shire amongst business entities and non-for profit organisations who currently hold Events in the Shire without corresponding Development Consent under the existing LEP provisions. These provisions for Consent have caused confusion into the duplication of approval processes and necessary statutory fee requiring payment that is beyond expectations of Event organisers.

Council, concurrently to this Planning Proposal, is also holding a number of workshops with private landowners to assist in the lodgement of Development Applications over their properties where current Events are being undertaken on a regular basis. This Planning Proposal therefore assists in creating a level playing field, removes confusion and duplication, and will encourage more Temporary Events to the Gloucester Shire benefiting the community. Events held in and around the predominantly rural-based towns and villages in the Gloucester Shire LGA are critical to the on-going social networking of its residents.

Economic

The continuation of successful Events organisation is critical to encourage further direct and in-direct economic benefits from events held in the Shire. These Events do not compete with, but rather complement each other with different themes and activities encouraging community and tourist visitation throughout the year. Such Events allow a format for local producers and craftsperson's to market their product benefiting all types of industries.

Section D – State and Commonwealth Interests

3.D.1 Is there adequate public infrastructure for the planning Proposal?

There are no public infrastructure implications with the Planning Proposal.

3.D.2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

Consultation for the original Planning Proposal was undertaken to the following State Agencies 8 September 2015:

- The New South Wales Rural Fire Service (NSW RFS) in accord with Section 117 Direction 4.4 – Planning for Bushfire Protection.

Comments were received from the NSW RFS 21 October 2015 with no objections to the subject Clause with the provision that overnight camping in association with temporary events was carried out with appropriate bushfire risk assessments.

Issues raised by the NSW RFS have been addressed in Attachment 1 – Detailed Consistency with Section 117 Directions.

- New South Wales State Emergency Service (NSW SES) in accord with Section 117 Direction 4.3 – Flood prone Land and the NSW Floodplain Development Manual.

A response has not been received from the NSW SES in relation to the subject Proposal.

The above agencies were again consulted in relation to the Planning Proposal during the public exhibition period. Again, no response was received from the SES. This has been taken as the SES having no objection to the proposed clause for Temporary Events.

The RFS provided a written response on 6 April 2016, advising as follows:

“The NSW RFS has no objection to Temporary Events being exempt development providing:

1. *The definition of Temporary Event for the purposes of clause 6.5 in Schedule 1 Part 6 of Gloucester LEP 2010 be amended to read:*

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

2. *The last sentence in proposed clause 6.5 in Schedule 1 Part 6 of Gloucester LEP 2010 be amended to read:*

“The undertaking of Temporary Events on private lands or where overnight camping/accommodation is provided will continue under the present format requiring Development Consent”.

3. *A suitable bush fire risk assessment is incorporated in the proposed S68 Local Approvals process.”*

The Planning Proposal has been amended in response to the above RFS submission.

PART 4 - MAPPING

(s.55(2)(d) Maps to be adopted by the proposed instrument)

No maps are required for the Planning Proposal.

PART 4 – COMMUNITY CONSULTATION

In accordance with Section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act* 1979 and the requirements of the Gateway Determination dated 4 September 2015, this Planning Proposal was made publically available for a minimum of 28 days from 24 February 2016 to 23 March 2016 inclusive.

In accordance with Council's adopted consultation protocols the following was also undertaken:

- A Notice in the local newspaper;
- Exhibition material and all relevant documents were made available at all Council's Offices within the LGA;
- Consultation documents were made available on Council's website.

No public submissions were received in relation to the Planning Proposal. It is considered that this Planning Proposal for an additional Clause for exemptions of certain temporary events has been well received by the Gloucester community.

PART 6 - PROJECT TIMELINE

In accordance with the Department of Planning and Environment guidelines, the following timeline is provided, which includes the tasks deemed necessary for the making of this local environmental plan.

Task	Responsibility	Timeframe	Date (approximate)
Lodgement of Planning Proposal for Amended Gateway Determination	Council	-	20 June 2017
Amended Gateway Determination Issued	Minister for Planning	-	July 2017
Making of local environmental plan	Minister for Planning	6 – 8 weeks	September 2017

2.4 Proposed Gateway Planning Proposal to Amend Gloucester LEP 2010 - Events

Report author: Urban and Regional Planner

Responsible officer: Manager Planning and Environment

Executive Summary

Council has recently experienced a growth in “event” type activities within the Shire. The Gloucester LEP 2010 currently requires a development application to be lodged for a temporary use of land for events. At its meeting 15 October 2014 Council were presented, as part of its strategic model for Development Control Plan (DCP) releases, a Draft DCP for Events (Part M). This DCP was to provide guidance on the type of information required to be submitted with each application. At this meeting Council resolved that a Workshop be held with relevant stakeholders and the community to review the Draft DCP Events provisions.

Following working discussions, at its meeting 19 November 2014 Council resolved to place the Draft Development Control Plan (DCP) Part M – Events, incorporating selected amendments on exhibition for 28 days for review and comment. As a result of this exhibition three (3) comments were received.

Following discussions with the community and stakeholders Council’s Planning and Regulatory Services have revised the way in which Events require approval under the Gloucester Local Environmental Plan 2010. This Report seeks Council’s endorsement to prepare a Planning Proposal for Gateway Determination by the NSW Planning Office to amend the LEP so that Events on public reserves and roads will be exempt from the requirements of development approval. With this amendment to the LEP, the current Draft Development Control Plan Part M for Events will no longer be required (as no Development Consent requirements will apply) and this Draft DCP, formerly placed on public exhibition, will be discontinued.”

RECOMMENDATION

In accordance with Section 55 of the Environmental Planning and Assessment Act 1979 Council resolve to prepare a Planning Proposal to undertake a General Amendment to Gloucester Environmental Plan (LEP) 2010 incorporating a New Local Clause 6.5 – Events permitted without development consent and once prepared, the planning Proposal be submitted to NSW Planning and Environment for a Gateway Determination.

- A. In accordance with Section 59 of the Environmental Planning and Assessment Act 1979 Council request written authorisation from NSW Planning & Environment to exercise its plan making delegations to undertake the Planning Proposal of General Amendments.**
- B. If NSW Planning & Environment grant a Gateway Determination to proceed with the Planning Proposal of General Amendments, consultation be undertaken with the community and government agencies in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and any directions of the Gateway Determination.**

- C. That the Draft DCP 2014 Part M – Events previously placed on public exhibition be discontinued.
- D. That Council's Regulatory and Planning Services conduct a workshop to formulate a program to assist both other Council units and community organisations to prepare and submit Development Applications for Events on private lands.
-

Detailed Report

Further investigations of this matter into how Events can be carried out have resulted in a change of direction from Council's Planning and Regulatory services and it is now proposed that Council undertake an amendment to the Gloucester Local Environment Plan (LEP) 2010 via the insertion of a Part 6 (Additional Local Provisions) LEP Clause for Events, viz:

"6.5 Events permitted without development consent

- (1) *The objective of this clause is to provide for the temporary use of public reserves and 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 of a temporary event may be carried out on a public reserve or public road 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 (Temporary Structures) 2007 does not apply to development to which this clause applies.*
- (4) *In this clause:*

public reserve *has the same meaning as in the Local Government Act 1993.*

temporary event *means an exhibition, meeting, concert or other event that is open to the public for which land is used for a period of not more than 52 days (whether or not consecutive) in any period of 12 months."*

The Clause is not a Model Clause for Standard LEP's however it has been adopted in various other New South Wales Local Government Areas including the City of Newcastle, Port Stephens and Greater Taree Council's.

This Clause will resolve how Events are defined in the LEP however it is important to note that the Clause applies to public roads and reserves only. Development Consent for Events will still be required on private lands. A further outcome would be to encourage Council's associated business units to lodge Development Applications over selected sites that are currently being used for events. Such a Development Consent over a site would be on-going with Conditions. Council's Community Event Application process would be processed concurrently to the Development Application.

Amendments to LEP's follow the Statutory "Gateway" process which involves the preparation of a planning Proposal to the New South Wales Minister for Planning. The timeframe for completion is

expected to be 6 months from the submission of planning Proposal. Due to this urgency of this matter, this Planning Proposal, in addition to the New Clause as it relates to Holiday Housing will be undertaken separately to proposed LEP “Housekeeping” amendments to be undertaken in the 2015/2016 Financial year.

Alignment with Strategic Plan/Program

Item 2.4.1.c of Council's Operational Plan relates to the Delivery Program Objective of *developing and maintaining an appropriate legislative and policy framework to guide and control development to meet acceptable community standards.*

Financial and Resource Implications

There are no financial resource implications for Council in regard to this matter.

Policy Implications

The proposed Gateway Planning Proposal to amend the LEP will lead to a revision and review of Council's policy requirements with regard to Events.

Risk Considerations

There are no risk considerations for Council in regard to this matter.

Statutory/Regulatory Considerations

The proposed amendments need to be managed in accordance with the requirements of the Environmental and Planning and Assessment Act. These requirements include the preparation of a Planning Proposal by Council's Regulatory and Planning Services setting out the justification and intended effect of the proposed amendment and the details of the public consultation to be carried out relating to the amendment.

Previous Report Relevant to this Matter

Report to Council 19 November 2014

Attachments

Nil.

2.4 Proposed Gateway Planning Proposal to Amend Gloucester LEP 2010 – Events

- 124/15 **RESOLVED** that in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 Council resolve to prepare a Planning Proposal to undertake a General Amendment to Gloucester Environmental Plan (LEP) 2010 incorporating a New Local Clause 6.5 – Events permitted without development consent and once prepared, the planning proposal be submitted to NSW Planning and Environment for a Gateway Determination.
- A. In accordance with Section 59 of the Environmental Planning and Assessment Act 1979 Council request written authorisation from NSW Planning & Environment to exercise its plan making delegations to undertake the Planning Proposal of General Amendments.
- B. If NSW Planning & Environment grant a Gateway Determination to proceed with the Planning Proposal of General Amendments, consultation be undertaken with the community and government agencies in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and any directions of the Gateway Determination and that Council conduct a workshop to formulate the program.
- C. That the Draft DCP 2014 Part M – Events previously placed on public exhibition be discontinued.
- D. That Council's Regulatory and Planning Services conduct a workshop to assist both other Council units and community organisations to prepare and submit Development Applications for Events on private lands.

(Cr Hoggett/Cr J Hooke)

2.4 Planning Proposal to Amend Gloucester LEP 2010 – Temporary Events

Report Author: Urban and Regional Planner

Responsible Officer: General Manager

Executive Summary

This report informs and updates Council following public exhibition of the Planning Proposal for Temporary Events with the aim of proceeding with the Proposal by forwarding the Planning Proposal to the Department of Planning and Environment (the Department) for the associated Local Environmental Plan (LEP) to be drafted and made.

RECOMMENDATION

That Council:

- A. Pursuant to section 59 of the *Environmental Planning and Assessment Act 1979* adopt the revised Planning Proposal for Temporary Events (Exempt Development) contained in Attachment 3 and submit the Planning Proposal to the Parliamentary Counsel's Office for the LEP to be drafted.**
 - B. Upon acceptance of the Parliamentary Counsel's Office draft clause to give effect to the revised Planning Proposal for Temporary Events (Exempt Development), submit the LEP Amendment to the Minister to be made and notified on the NSW Legislation website.**
-

Detailed Report

At its Meeting of 15 July 2015, Council resolved to prepare a Planning Proposal for an amendment to the *Gloucester Local Environmental Plan 2010*. Specifically, the Planning Proposal seeks to amend the LEP by inserting the following Clause 6.5:

“6.5 Events permitted without development consent

- (1) The objective of this clause is to provide for the temporary use of public reserves and 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 of a temporary event may be carried out on a public reserve or public road 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 (Temporary Structures) 2007 does not apply to development to which this clause applies.*

(4) In this clause:

public reserve has the same meaning as in the Local Government Act 1993.

temporary event means an exhibition, meeting, concert or other event that is open to the public for which land is used for a period of not more than 52 days (whether or not consecutive) in any period of 12 months.

A Gateway Determination subject to Conditions was issued by the Department on 4 September 2015 (Attachment 1).

Council will recall that the original Planning Proposal presented to Council 15 July 2015 also sought an amendment to the LEP to enable the use of existing dwellings for short-term holiday accommodation without consent. As a result of initial consultation with the NSW RFS, however, it was decided that this amendment should proceed as a separate Planning Proposal.

Accordingly, the Planning Proposal was revised to separate both amendments and the amended Planning Proposal for Temporary Events was placed on public exhibition from 24 February 2016 to 23 March 2016 inclusive.

Notification of the exhibition was arranged in the Gloucester Advocate. The Planning Proposal and all supporting documentation were made available at Council's Office and at Council's Tourist Information Centre where the majority of public enquiries toward the holding of events are initially made.

In response to the public exhibition no (nil) written submissions were received. It is generally considered that this Planning proposal has been well received by the public and those organisers of temporary events on public land and roads.

Further consultation with both the NSW Rural Fire Service (RFS) and the NSW State

Emergency Service (SES) was undertaken during the public exhibition period. No response was received from the SES. The RFS provided a written response on 6 April 2016, advising as follows:

"The NSW RFS has no objection to Temporary Events being exempt development providing:

1. *The definition of Temporary Event for the purposes of clause 6.5 in Schedule 1 Part 6 of Gloucester LEP 2010 be amended to read:*

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

2. *The last sentence in proposed clause 6.5 in Schedule 1 Part 6 of Gloucester LEP 2010 be amended to read:*

"The undertaking of Temporary Events on private lands or where overnight camping/accommodation is provided, will continue under the present format requiring Development Consent".

3. *A suitable bush fire risk assessment is incorporated in the proposed S68 Local Approvals process."*

A copy of the RFS submission is included in Attachment 2.

The Planning Proposal has now been amended in response to the RFS submission and a copy of the revised Planning Proposal is provided in Attachment 3.

It is recommended that the revised Planning Proposal now be adopted by Council and forwarded to the Department of Planning & Environment for drafting and subsequent publication on the NSW Legislation website.

Alignment with Strategic Plan/Program

Item 2.4.1.c of Council's Operational Plan relates to the Delivery Program Objective of developing and maintaining an appropriate legislative and policy framework to guide and control development to meet acceptable community standards.

Financial and Resource Implications

There are no financial resource implications for Council in regard to this matter.

Policy Implications

The adoption of the Planning Proposal will lead to a revision and review of Council's policy requirements with regard to Temporary Events on public reserves or public roads.

Risk Considerations

There are no risk considerations for Council in regard to this matter.

Statutory/Regulatory Considerations

The proposed amendments need to be managed in accordance with the requirements of the Environmental and Planning and Assessment Act 1979.

Attachments

1. NSW Department of Planning and Environment Gateway Determination issued 4 September 2015
2. RFS letter dated 6 April 2016
3. Revised Planning Proposal - April 2016 - Temporary Events (Exempt Development)

2.4 Planning Proposal to Amend Gloucester LEP 2010 – Temporary Events

53/16 **RESOLVED** that Council:-

- A. Pursuant to section 59 of the *Environmental Planning and Assessment Act 1979* adopt the revised Planning Proposal for Temporary Events (Exempt Development) contained in Attachment 3 and submit the Planning Proposal to the Parliamentary Counsel's Office for the LEP to be drafted.
- B. Upon acceptance of the Parliamentary Counsel's Office draft clause to give effect to the revised Planning Proposal for Temporary Events (Exempt Development), submit the LEP Amendment to the Minister to be made and notified on the NSW Legislation website.

(Cr J Henderson/Cr J Hooke)

Appendix E – Consistency with S117 Ministerial Directions

No.	Direction	Consistency
Employment and Resources		
1.1	Business and Industrial Zones	N/A
1.2	Rural Zones Aims to protect the agricultural production value of rural lands.	The Proposal is not inconsistent with this Direction.
1.3	Mining, Petroleum Production and Extractive Industries	N/A
1.4	Oyster Aquaculture	N/A
1.5	Rural Lands Aims to protect the agricultural production value of rural lands and facilitate orderly and economic development of rural lands for rural and related purposes.	The Proposal is not inconsistent with this Direction.
Environment and Heritage		
2.1	Environmental Protection Zones Aims to conserve and protect environmentally sensitive areas.	N/A
2.2	Coastal Protection	N/A
2.3	Heritage Conservation Aims to conserve items and places of heritage significance and indigenous heritage significance	Temporary Events do not require any permanent building works or development that will impact on heritage items or places.
2.4	Recreation Vehicle Areas Aims to protect sensitive lands with significant vegetation value from the adverse impacts of recreational vehicles	The Proposal is not inconsistent with this Direction.

Housing, Infrastructure and Urban Development

3.1	Residential Zones Aims to encourage a range of housing that makes efficient use of existing infrastructure and service that does not impact on the environment or resource lands.	N/A
3.2	Caravan Parks and Manufactured Home Estates Aims to provide a variety of housing types including opportunities for caravan parks and manufactured home estates.	The Proposal is not inconsistent with this Direction.
3.3	Home Occupations Aims to encourage low impact businesses in dwelling houses.	The Proposal is not inconsistent with this Direction.
3.4	Integrating Land Use & Transport Aims to improve access by walking, public transport and other means that reduce private car travel dependencies.	The Proposal is not inconsistent with this Direction.
3.5	Development Near Licensed Aerodromes Aims to ensure that Aerodromes operate safely and effectively and that development within the vicinity of aerodromes is suitable for occupation and does not compromise aerodrome operations.	N/A
3.6	Shooting Ranges	N/A

Hazard & Risk

4.1	Acid Sulfate Soils	N/A
4.2	Mine Subsidence and Unstable Land	N/A

4.3	Flood Prone Land The purpose of this Direction is to ensure the provisions of the LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential of the flood impacts both on and off the subject land.	The Planning Proposal has been previously referred to the New South Wales State Emergency Service (NSW SES) for their advice. No response was received and this has been determined that the NSW SES have no requirements or objections to the proposed Clause.
4.4	Planning for Bushfire Protection The objectives of this Direction are to encourage the sound management of bushfire prone areas, and to protect life, property and the environment from bushfire hazards.	The Planning Proposal has been previously referred to the New South Wales Rural Fire Service (NSW RFS) for their advice. Comments were received from the NSW RFS 21 October 2015 with no objections to the subject Clause with the provision that overnight camping in association with temporary events was carried out with appropriate bushfire risk assessments. The subject Clause does not exempt overnight camping in association with temporary events. Any overnight camping associated with the holding of temporary events will still require either: a. Relevant Section 68 Local Approval under the provisions of the Local Government Act 1993 and/or; b. If required, a Development Consent under the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Gloucester Local Environmental Plan 2010</i>; or c. An existing approval for an overnight camping facility under the approval provisions of the relevant Acts.
Regional Planning		
5.1	Implementation of Regional Strategies	The Proposal is in accord with the provisions of the 2012 Upper Hunter Strategic Land Use Plan (UHSLUP).
5.2	Sydney Drinking Water Catchments	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4	Commercial and Retail Development along the	N/A

	Pacific Highway, North Coast	
5.5	Revoked	
5.6	Revoked	
5.7	Revoked	
5.8	Second Sydney Airport: Badgerys Creek	N/A
Local Plan Making		
6.1	Approval and Referral Requirements	The Proposal will decouple the current approval processes in place allowing for more efficient assessment.
6.2	Reserving Land for Public Purposes	The Proposal will aim to ensure land is reserved for public purposes by the continuation and encouragement of the public use of this land.
6.3	Site Specific Provisions	N/A
Metropolitan Planning		
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N/A