



Planning Proposal – July 2015

Events and Short-term Rental Accommodation (Exempt Development)

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1. Background

This Planning Proposal has been prepared by Gloucester Shire Council. The Planning Proposal, in two (2) parts, proposes to provide provisions for:

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

This Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the New South Wales Department of Planning Guidelines, *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

At its meeting 15 July 2015 Gloucester Shire Council resolved to undertake a Planning Proposal for both Items.

Gloucester Shire Council hereby requests a Gateway determination under Section 56 of the EP&A Act for the draft amendment and authorisation to exercise its delegations for this Planning Proposal.

2. Objectives and Intended Outcomes

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

2.1 Short-term Rental Accommodation

The following are the objectives and intended outcomes of this Planning Proposal as it relates to Short-term rental accommodation:

- (i) To enable the use of dwellings for short-term rental accommodation.
- (ii) To prescribe the circumstances where development consent is required for the use of dwellings for holiday rental accommodation;
- (iii) To allow the continuation of the letting of dwellings on a short term basis for the purposes of providing holiday accommodation in those zones where dwellings are permitted with consent;
- (iv) To ensure that the use operates at a scale that is compatible with maintaining the residential amenity of the surrounding neighbourhood.

2.2 Temporary Events

The following are the objectives and intended outcomes of this Planning Proposal as it relates to Temporary Events:

- (i) To enable certain Temporary Events and development associated with Temporary Events on public reserves and public 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.

3. Explanation of the Proposal

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

3.1 Short-term Rental Accommodation

This planning proposal relates to all land within the Gloucester Shire Local Government Area.

This planning proposal seeks to enable the short-term rental of dwellings for purposes of holiday accommodation and the like to be undertaken as exempt development.

The planning proposal intends to enable this by amending the Gloucester Shire Local Environmental Plan 2010 by insertion of the following Clause 6.6 in Schedule 1, Part 6 – Additional local provisions:

“6.6 Short-term rental accommodation

(1) The objective of this clause is to enable the temporary use of dwellings as short-term rental accommodation for tourists and visitors without requiring development consent.

(2) Despite any other provision of this Plan, development consent is not required for the temporary use of a dwelling as short-term tourist and visitor accommodation (except bed and breakfast accommodation).

(3) In this clause:

***short-term tourist and visitor accommodation** is tourist and visitor accommodation where the maximum period for which any person is accommodated is 60 consecutive days in a 12 month period and that does not involve interference with the amenity of the neighbourhood by reason of the emission of noise or traffic generation.”*

3.2 Temporary Events

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 Shire 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 period of 12 months.”*

The undertaking of Temporary Events on private lands will continue under its present format requiring Development Consent assessed against Council’s guidelines.

4. Justification

(s.55(2)(c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117)

4.1 Section A – Need for the Planning Proposal

4.1.1 In the Planning Proposal a result of any strategic study or report?

Short-term Rental Accommodation

The Planning Proposal is not considered to be linked directly to any study or report. However the need to develop provisions for short-term holiday rental accommodation is not unique to Gloucester Shire Council.

Gloucester Shire Council encapsulates sections of the World Heritage listed Barrington Tops National park, part of the Gondwana Rainforests of Australia, and the Barrington Forest State Conservation area. These natural areas provide opportunities for camping, bushwalking, hiking and a range of other recreational activities that attract over 150,000 visitors per year. These numbers equate to approximately 7% of the industry sector being dedicated to tourism in the Gloucester Shire. Government statistics show tourism contributes \$51 million annually to the Gloucester economy.

Recently, Gloucester Shire Council has received enquiries for both investors and residents (who may have seasonal shift work away from home and the like) into the possibilities of the use of these dwellings for short-term rental accommodation to accommodate and enhance tourist numbers to the region. Under the current LEP provisions such use requires Development Consent. Removing this Consent provision would be beneficial to the Gloucester Shire economy and tourism industry.

It is noted that a number of Council's, including but not limited to Gosford, Wyong 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 "*short-term tourist and visitor accommodation*".

Temporary Events

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.

4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Short-term Rental Accommodation

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 the use of lawful dwellings for short-term holiday rental accommodation that does not impact upon the amenity of the surrounding locality.

Temporary Events

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.

4.2 Section B – Relationship to Strategic Planning Framework

4.2.1 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 2012 Upper Hunter Strategic Land Use Plan (UHSLUP) and the Upper Hunter Economic Diversification Report recognises that it is critical for region to build upon the strengths of existing industries such as tourism to diversify the regional economy to make it more resilient to change in the longer term.

The Strategy also recognises the narrow economic base and slower population growth of the Gloucester Shire and aims to attract new industries and employment, to retain the existing population and to generate sufficient population to attract economic investment will be vital to these areas.

This Planning proposal is consistent with the objectives of the UHSLUP) aiding to assist economic diversification and employment with new business industries through holiday rentals in addition to encouraging economic investment in the Shire through Temporary Events and the direct and indirect benefits from such events.

4.2.2 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 Proposals for both Short-term Rental Accommodation and Temporary Events are consistent with this Direction. Both proposals for Exempt 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.

The Planning Proposal enables the use of dwellings of up to 4 bedrooms for short-term holiday rental accommodation as Exempt Development. The appropriateness of the dwelling on site, including its relationship to the natural environment, has therefore been previously assessed and consent granted. For dwellings in excess of 4 bedrooms wishing to act as short-term holiday accommodation, the development application process would consider environmental factors as part of the approval process.

This Planning proposal also 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.

The Planning Proposal enables the use of dwellings of up to 4 bedrooms for short-term holiday rental accommodation as Exempt Development. This will provide important economic and employment benefits for the local community encouraging tourism and indirect and direct impacts from tourist spending. The proposal aims to encourage a more diverse range of tourist accommodation and attract new business to the region.

This Planning proposal also seeks to allow Temporary Events as Exempt development where they occur on public reserves or 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 Proposals for both Short-term Rental Accommodation and Temporary Events are consistent with this Direction. The Short-term Rental Accommodation Clause will include provisions for limiting interference with residential amenity.

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.

The Planning Proposals for both Short-term Rental Accommodation and Temporary Events are consistent with this Direction. The catalyst for both Planning Proposals resulted from public and community expectations, enquiries and extensive stakeholder engagement.

4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

There are no State Environmental Planning Policies which are applicable to this Planning Proposal.

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

A summary of the Planning Proposals consistency with Ministerial Directions applicable to lands in the Gloucester Shire has been provided in Attachment 1 of this Planning proposal.

4.3 Section C – Environmental, Social and Economic Impact

4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological

No. The Planning Proposal will not impact upon critical habitats, threatened species, populations or ecological communities or their habitats.

4.3.2 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.

4.3.3 Has the Planning Proposal adequately addressed any social and economic effects?

Social

The Planning proposal to include Exemption requirements for both Short-term Rental Accommodation and Temporary Events will have positive social and economic effects.

The Clause for short-term rental accommodation will adequately address amenity concerns for existing residents and will significantly reduce “red tape” allowing owners of dwellings seeking to rent their dwellings for holiday accommodation to do so cost effectively and in a timely manner without laborious development consent processes.

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 close working with private landowners to assist in the lodgement of Development Consents 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 primary objective of the Clause for short-term rental accommodation is to assist in the creation of a unique market accommodation choice which will benefit the tourism sector in the Gloucester Shire at large. The exemption Clause is not expected to affect existing tourist accommodation venues with the dwellings subject to this clause envisioned to house holidaying families and the like of which require larger alternative holiday accommodation requirements. Increased amenity, which will be facilitated by the Planning Proposal, will also have positive economic effects such as increased visitation, growth capacity, improved visitor experience and increased visitor spend.

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.

4.4 Section D – State and Commonwealth Interests

4.4.1 Is there adequate public infrastructure for the planning proposal?

The Planning Proposal does not require the provision of any additional public infrastructure. For Both planning proposals adequate infrastructure should already be in place over well-established sites, public reserves or roads.

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

Consultations have not yet been undertaken with State and Commonwealth agencies as the Gateway determination has not yet been issued. Once a Gateway determination is received Council will consult with any State and Commonwealth public authorities in accordance with the Gateway Determination.

It is envisaged that any requirements for bushfire evacuation from the NSW Rural Fire Service will not apply for Short-term rental accommodation given that Bushfire Assessment should have been undertaken as part of the Consent for the dwelling.

It is considered that no additional bushfire provisions should be included for short-term rental accommodation in Class 1a buildings whereby such a use of the building will not change the Class of the building under the provisions of the Building Code of Australia and whereby the expected tenants will all form part of a 'single household' for bushfire evacuation purposes.

5. Mapping

No maps are required for the Planning Proposal.

6. Community Consultation

In accordance with Section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979*, this Planning Proposal will be made publically available for a minimum of 28 days.

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

- Notices in the local newspaper;
- Exhibition material and all relevant documents to be made available at all Council's Offices within the LGA;
- Media releases;
- Consultation documents to be made available on Council's website; and
- Letters to all Real Estate Agents within the Local Government area, including key property owners and those who have made representations to Council on the issue.

Any further consultation requirements in accordance with the Gateway determination will be undertaken.

7. Project Timeline

In accordance with DP&E guidelines the following timeline is provided which includes the tasks deemed necessary for the making of this local environmental plan.



Attachment 1 - Detailed Consistency with s.177 Directions

		Short-term accommodation	Rental	Temporary Events
No.	Direction	Consistency		Consistency
Employment and Resources				
1.1	Business and Industrial Zones	N/A		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		N/A
1.4	Oyster Aquaculture	N/A		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.	Considerations into environmental impacts from the proposal will have been previously assessed via the proposal for the dwelling on the site.		N/A
2.2	Coastal Protection	N/A		N/A
2.3	Heritage Conservation Aims to conserve items and	Matters relating it impacts on heritage will have		Temporary Events do not require nay permanent

	places of heritage significance and indigenous heritage significance	previously been considered at the Application for a dwellings stage.	building works or development that will impact on heritage items or places.
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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.	The Planning Proposal involves existing dwellings which have been constructed utilising existing infrastructure and services.	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.	The Planning proposal involves only existing dwellings which if located near the Gloucester Airport will have previously been assessed against the LEP provisions for the ANEF contour.	N/A

3.6	Shooting Ranges	N/A	N/A
Hazard & Risk			
4.1	Acid Sulfate Soils	N/A	N/A
4.2	Mine Subsidence and Unstable Land	N/A	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 will involve existing dwelling where flooding considerations have been addressed as part of the Application for the dwelling.	Such Events are temporary in nature and will not be affected by flood events.
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.	It is envisaged that any requirements for bushfire evacuation form the NSW Rural Fire Service will not apply for Short-term rental accommodation. There is no change in a class of building under BCA requirements.	N/A
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	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	N/A
5.5	Revoked		

5.6	Revoked		
5.7	Revoked		
5.8	Second Sydney Airport: Badgerys Creek	N/A	N/A
Local Plan Making			
6.1	Approval and Referrals Requirements	The Proposal minimises the need for referrals by requiring the use apply to existing dwellings. The Proposal is not inconsistent with this Direction.	The Proposal will decouple the current approval processes in place allowing for more efficient assessment.
6.2	Reserving Land for Public Purposes	The Proposal is not inconsistent with this Direction.	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	N/A
Metropolitan Planning			
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N/A	N/A

2.3 Proposed Gateway Planning Proposal to Amend Gloucester LEP 2010 – Short Term Rental Accommodation

Report Author: Urban and Regional Planner

Responsible Officer: Manager Planning and Environment

Executive Summary

Council has recently experienced enquiries relating to the short-term renting of dwelling houses for holiday rental purposes. These enquiries often relate to homeowners wishing to rent out furnished dwellings that are otherwise vacant to single families or couples.

RECOMMENDATION

- A. 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 New Local Clause 6.6 – Short-term holiday accommodation and once prepared, the planning proposal be submitted to NSW Planning and Environment for a Gateway Determination.**
 - B. 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.**
 - C. 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.**
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Detailed Report

The current provisions of the Gloucester Local Environmental Plan (LEP) 2010 define this type of accommodation as Tourist and Visitor Accommodation meaning:

“A building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpacker’s accommodation;*
- (b) bed and breakfast accommodation;*
- (c) farm stay accommodation;*
- (d) hotel or motel accommodation;*
- (e) serviced apartments;*

but does not include:
(f) camping grounds; or
(g) caravan parks; or
(h) eco-tourist facilities.

Tourist and Visitor Accommodation require Development Consent in all Zones in the LEP. To remove uncertainty for the short-term rental of dwellings and decouple this type of use from defined Visitor and Tourist Accommodation, it is 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 Short-term rental accommodation, viz:

“6.6 Short-term rental accommodation

- (1) The objective of this clause is to enable the temporary use of dwellings as short-term rental accommodation for tourists and visitors without requiring development consent.*
- (2) Despite any other provision of this Plan, development consent is not required for the temporary use of a dwelling as short-term tourist and visitor accommodation (except bed and breakfast accommodation).*
- (3) In this clause:*

short-term tourist and visitor accommodation is tourist and visitor accommodation where the maximum period for which any person is accommodated is 60 consecutive days in a 12 month period and that does not involve interference with the amenity of the neighbourhood by reason of the emission of noise or traffic generation.”

The Clause is not a Model Clause for Standard LEP's but however has been adopted in various other New South Wales Local Government Areas including the Great Lakes and Gosford City Council's. The Clause allows for accommodation, not otherwise defined as specific Visitor Tourist Accommodation, to operate without development consent.

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 Events 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 Tourist Accommodation.

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.

Attachments

Nil.

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.
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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.