

Planning Proposal 01/2021

Proposed Amendment to *Narrabri Local Environmental Plan 2012*

**Amendment to enable Temporary Events on land reserved
for public recreation and/or a public road to be added to
Schedule 2 Exempt Development.**



Version 01

PART 1: OBJECTIVES OR INTENDED OUTCOMES

SECTION A – BACKGROUND

This planning proposal recommends an amendment to the *Narrabri Local Environmental Plan 2012* (LEP 2012) to enable Temporary Events and development associated with Temporary Events on land zoned RE1 Public Recreation and/or any public roads within the Shire to be undertaken as Exempt Development. The planning proposal also removes duplication of the approvals process under the *Local Government Act 1993*, the *Roads Act 1993* and the *Environmental Planning and Assessment Act 1979* (EP & A ACT)

This document sets out the justification for and explains the intended effect of the recommended amendment.

The preparation of the planning proposal is the first step in New South Wales (NSW) Planning, Industry and Environment's (DPIE) Gateway Process, the process for making or amending local environmental plans. It has a number of steps, set out in Table 1 that requires this document to be revised as it progresses through the Gateway Process. This document is currently at Step 1: Planning Proposal.

No.	Step	Explanation
1.	Planning Proposal	Council prepares a document explaining the effect of and justification for making or amending a local environmental plan.
2.	Gateway Determination	The Department of Planning and Environment determines whether a planning proposal should proceed.
3.	Community Consultation	The planning proposal is publicly exhibited.
4.	Assessment	Council considers any submissions it receives in response to the public exhibition, changing the planning proposal as necessary.
5.	Drafting	Parliamentary Counsels Office prepares a draft local environmental plan.
6.	Decision	The Minister (or delegated plan making authority) approves the local environmental plan, making it law.

Table 1 Gateway Process

The remainder of this document is split into the following parts:

Part	Explanation
1.	The objectives and intended outcomes of the proposal
2.	An explanation of the provisions to be included in LEP 2012
3.	Justification for the objectives and intended outcomes
4.	Mapping
5.	Projected timeline

Table 2: Parts of Planning Proposal

SECTION B – OBJECTIVES

The objectives and intended outcomes of this planning proposal are:

1. To enable certain Temporary Events and development associated with Temporary Events on landzoned RE1 Public Recreation and/or any public roads to be undertaken as Exempt Development;
2. To remove duplication of the approvals process under the *Local Government Act 1993*, the *Roads Act 1993* and the EP & A Act as it relates to Temporary Events and development associated with Temporary Events by not requiring development approval to be granted under the EP & A Act.

PART 2: EXPLANATION OF PROVISIONS

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

The MCP SEPP also introduced State-wide provisions to enable:

- The erection of temporary structures with development consent, and
- Limited change of use in certain business zones to occur without development consent.

The Standard Instrument LEP contains standard clauses that were intended to supersede the clause of the MCP SEPP.

It is understood that the DPIE is reviewing SEPPs to simplify and modernise the planning system by removing duplicated, redundant, and outdated planning controls. DPIE proposes to improve and simplify NSW development standards by repealing SEPP No.1 – Development Standards and MCP SEPP. The planning provisions contained in these two policies will be incorporated in local planning controls. The submission period for the repeal of these two SEPPs has closed and now being considered.

The LEP 2012 is based on the Standard Instrument LEP and contains provision 2.8 Temporary use of land which requires development consent to be obtained for development on land in any zone for a temporary use for a maximum period of 28 days in any period of 12 months.

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

This planning proposal does not propose to modify provision 2.8 Temporary use of land under the Narrabri LEP 2012 but rather allow for events to be exempt from development consent on land zoned RE1 Public Recreation and/or any public roads. The planning proposal will allow for temporary structures that are associated with the event to be erected as Exempt Development.

This planning proposal relates to all land within the LEP 2012 area that is zoned RE 1 Public Recreation or a public road.

The planning proposal intends to enable this by amending LEP 2012 by inserting the following in to Schedule 2 Exempt Development:

- 1) *Development for the purposes of temporary uses including community events (such as ceremonies, cultural celebrations, exhibitions, fetes, fairs, gatherings, markets or sporting events).*
- 2) *Must be on land zoned RE1 Public Recreation and/or any public roads within the Shire.*
- 3) *Maximum number of patrons on any one site —300.*
- 4) *Must not be conducted for more than 12 days (up to a maximum of 3 consecutive days) in any period of 12 months.*
- 5) *May only operate between 7.00 am and 9.00 pm.*
- 6) *Must provide sufficient toilet facilities and access to water for patrons and staff.*

- 7) *The noise level of any open air entertainment must not exceed the background noise level by more than 5dB(A) when measured at the nearest residential boundary.*
- 8) *Must provide adequate artificial lighting, if necessary, to permit safe movement of patrons.*
- 9) *Operator must have arrangements for the collection, by an authorised trade waste contractor, of waste and recyclable materials that are generated by the event or use.*
- 10) *Must not include permanent physical change to the fabric of the location where the use occurs.*
- 11) *Must maintain emergency vehicle access to and around the premises.*
- 12) *Must not restrict pedestrian access to public facilities unless alternative access is provided.*
- 13) *Must not prevent pedestrian access to existing footpaths unless alternative pedestrian pathways are provided (alternative pedestrian pathways are to have physical barriers erected between the pathway and any adjoining road).*
- 14) *Must not restrict any car parking required to be provided by a condition of a development consent or plan of management applying to the land or any vehicular or pedestrian access to or from the land.*
- 15) *Must not redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property.*
- 16) *Must be covered by a policy of insurance taken out by the person carrying out the development that adequately covers the public liability of the person in respect of the carrying out of the development for an amount approved by the owner of the land on which the development is carried out.*
- 17) *If it is the erection of a temporary structure—be erected on a surface that is sufficiently firm and level to sustain the structure while in use.*
- 18) *If it is the erection of a temporary structure—be able to resist loads determined in accordance with the following Australian and New Zealand Standards—*
 - (i) *AS/NZS 1170.0:2002, Structural design actions, Part 0: General principles,*
 - (ii) *AS/NZS 1170.1:2002, Structural design actions, Part 1: Permanent, imposed and other actions,*
 - (iii) *AS/NZS 1170.2:2011, Structural design actions, Part 2: Wind actions.*

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.

Note 3—This clause only permits one temporary event to occur at any given time.

Note 4—This clause is applicable to class 2, 3 and 4 events as defined by the Guide to Traffic and Transport Management for Special Events.

PART 3: JUSTIFICATION

In accordance with the DPIE's *Guide to Preparing Planning Proposals*, this section considers the following issues:

- Section A: Need for the planning proposal
- Section B: Relationship to strategic planning framework
- Section C: Environmental, social and economic Impact
- Section D: State and Commonwealth Interests

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

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

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

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

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

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

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

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

It is considered that this planning proposal is a proactive and positive step in encouraging Temporary Events to be carried out on Public Reserves as Exempt Development. This planning proposal will not provide for exemptions for Temporary Events on private lands however, Development Consent requirements for such events will continue to be assessed by Council.

2. Is the planning proposal the best means of achieving the objectives or

intended outcomes or is there a better way?

It is considered that an amendment to the LEP 2012 is the only method to achieve the objectives and outcome sought by this planning proposal.

The current version of the LEP 2012 does not address this land use and as such this planning proposal is considered the most effective means of permitting Temporary Events within public reserves and roads providing other necessary permits (Local Government Act 1993, Roads Act 1993 etc) are obtained.

Provision 68 of the Local Government Act 1993 requires that a person can only carry out an activity such as:

- Engage in a trade of business
- Direct or procure a theatrical, musical or other entertainment for the public
- Construct a temporary enclosure for the purpose of entertainment
- For fee or reward, play a musical instrument or sing
- Set up, operate or use a loudspeaker or sound amplifying device
- Deliver a public address or hold a religious service or public

meeting with the consent of Council.

Under the current LEP 2012 development consent is required for temporary events to be held. In many instances, approval is also required under provision 68 of the Local Government Act as outlined above. The requirement for approval to be obtained under the Local Government Act 1993 will remain.

SECTION B –RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The *New England North West Regional Plan 2036*, hereafter referred to as the *Regional Plan*, was prepared by the DPIE to give strategic direction to development in the New England North West Region and is a relevant consideration for this planning proposal.

The *Regional Plan* recognises the network of regional cities and centres support diverse industries and that as their industries grow, centres will thrive and require high quality health, education and recreation options. The *Regional Plan* goes on to further recognise the regional cities of Tamworth and Armidale and the strategic centres of Narrabri, Moree, Inverell and Glen Innes will be the focus of employment and services.

The *Regional Plan* sets out four regionally focused goals and Direction's and Actions as policy measures targeted toward achieving the Plans goals.

The goals of the *New England North West Regional Plan 2036* are:
Goal 1 – A strong and dynamic regional economy
Goal 2 – A healthy environment with pristine waterways

Goal 3 – Strong infrastructure and connected transport networks for a connected future
Goal 4 – Attractive and thriving communities

The following Direction is considered relevant to this planning proposal:

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

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

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

- *Expand nature based adventure and cultural tourism places and enhance visitor experiences* – it is considered that this planning proposal is a positive and proactive way in achieving this priority as it allows Temporary Events to be held on Public Reserves to be permitted as Exempt Development.

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

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

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

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

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

- *Increased community arts, events and entertainment.*

This planning proposal does not directly relate to any provisions or outcomes of the *Strategic Plan*, however it is considered that it proactively provides the opportunity for an increase in community events and entertainment. Temporary Events have the capacity to encourage economic development and tourism in the Narrabri LGA by promoting and expanding on nature-based adventure and cultural tourism linked to the areas natural and scenic qualities as well as providing an opportunity for local businesses to market goods and services. This in turn will further encourage the Narrabri LGA as a tourist destination attracting new residents and businesses to the region.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 (MCP SEPP) is the only SEPP applicable to this planning proposal.

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

The MCP SEPP also introduced State-wide provisions to enable:

- The erection of temporary structures with development consent, and
- Limited change of use in certain business zones to occur as Exempt Development.

The Standard Instrument LEP contains standard clauses that were intended to supersede the clause of the MCP SEPP.

It is understood that the DPIE is reviewing SEPPs to simplify and modernise the planning system by removing duplicated, redundant and outdated planning controls. The DPIE proposes to improve and simplify NSW development standards by repealing SEPP No.1 – Development Standards and MCP SEPP. The planning provisions contained in these two policies will be incorporated in local planning controls. The submission period for the repeal of these two SEPPs has closed and now being considered.

The LEP 2012 is based on the Standard Instrument LEP and contains provision 2.8 Temporary use of land which requires development consent to be obtained for development on land in any zone for a temporary use for a maximum period of 28 days in any period of 12 months.

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

The Minister for Planning issues Local Planning Directions that Council must follow when preparing a planning proposal. The directions cover the following broad categories:

- Employment and resources
- Environment and heritage
- Housing, infrastructure and urban development
- Hazard and risk

Each S. 9.1 Ministerial Direction is listed below with an annotation stating whether it is relevant to the planning proposal and comments relating to its consistency with the corresponding objective. The planning proposal has considered all Ministerial Directions and is consistent with all Local Planning Directions.

S. 9.1 Direction Title	Consistency of Planning Proposal
1.1 Business and Industrial Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction.

1.2 Rural Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction.
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.
1.4 Oyster Aquaculture	Not applicable.
1.5 Rural Lands	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction.
2.1 Environment Protection Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction.
2.2 Coastal Protection	Not applicable.
2.3 Heritage Conservation	Not applicable. Temporary Events do not require any permanent building works or development that will impact on heritage items of places.
S. 9.1 Direction Title	Consistency of Planning Proposal
2.4 Recreation Vehicle Areas	Not applicable.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable.
3.1 Residential Zones	Not applicable. The planning proposal does not propose to rezone land and will not affect the provision of this Direction.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.
3.3 Home Occupations	The planning proposal will retain the provisions of the principle LEP which provides for this use without consent in most circumstances.
3.4 Integrating Land Use and transport	Not applicable.
3.5 Development Near Licensed Aerodromes	Not applicable.
3.6 Shooting Ranges	Not applicable.
4.1 Acid Sulfate Soils	Not applicable.
4.2 Mine Subsidence and Unstable Land	Not applicable.
4.3 Flood Prone Land	Not applicable. The planning proposal does not directly affect provisions relating to flood prone land. Flood policy would continue to be enforced on flood-prone land.
4.4 Planning for Bushfire Protection	The planning proposal would not affect existing bushfire planning provisions. These provisions would continue to be enforced for developments on bushfire prone land.
5.1 Implementation of Regional Strategies (Revoked 17 October 2017)	Not applicable.
5.2 Sydney Drinking Water Catchments	Not applicable.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.

5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not applicable.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)	Not applicable.
5.7 Central Coast (Revoked 10 July 2008)	Not applicable.
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.
5.9 North West Rail Link Corridor Strategy	Not applicable.
5.10 Implementation of Regional Plans	Consistent.
6.1 Approval and Referral Requirements	Not applicable.
6.2 Reserving Land for Public Purposes	Not applicable.
6.3 Site Specific Provisions	Not applicable.
7.1 Implementation of A Plan for Growing Sydney	Not applicable.
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
S. 9.1 Direction Title	Consistency of Planning Proposal
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Plan	Not applicable.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.

Table 3: SECTION 9.1 MINISTERIAL DIRECTIONS AND CONSISTENCY WITH THIS PLANNING PROPOSAL

SECTION C – ENVIRONMENTAL SOCIAL AND ECONOMIC IMPACT

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The planning proposal will not impact upon critical habitats, threatened species, populations or ecological communities of their habitats.

8. Are there any other environmental effects as a result of the planning proposal and

how are they proposed to be managed?

No. The planning proposal will not have any likely environmental effects.

Provision 89 of the Local Government Act 1993 outlines the matters that must be taken into consideration when considering an application for approval for an activity such as an event. Amongst other things council is required to take into consideration protection of the environment, protection of public health, safety and convenience and any items of cultural and heritage significance which might be affected.

Additionally, any land that is owned by council and is classified as Community Land under the Local Government Act 1993 must have a "Plan of Management". Community Land is generally open to the public and includes parks, reserves and sports grounds. Plans of Management also must address any environmental areas and how the land is to be used and managed.

It is considered there are sufficient requirements in place that will ensure that any areas of critical habitat or threatened species, populations or ecological communities, or their habitats will not be adversely affected as a result of this planning proposal.

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

It is considered that the planning proposal would have positive social and economic effects by providing an opportunity for Temporary Events to be held on Public Reserves as Exempt Development.

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

SECTION D – COMMONWEALTH AND STATE INTERESTS

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

Not applicable. It is considered that there are no additional infrastructure implications from this planning proposal.

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

Relevant State and Commonwealth Government Agencies will be consulted in accordance with the requirements of any Gateway Determination.

PART 4: MAPPING

This planning proposal is limited to amendment to the written instrument only and no mapping changes are proposed. Narrabri LEP 2012 maps can be viewed online on the NSW Legislation website.

PART 5: COMMUNITY CONSULTATION

In accordance with the *NSW DPIE guidelines to preparing LEP's*, upon Gateway Determination adjoining landholders and any affected community organisations will be formally notified of the proposal and invited to provide comment.

In accordance with prevailing DPIE Guidelines and the provisions of the Environmental Protection Authority Act, the planning proposal will also be notified publicly for the prescribed period in local newspapers and Council's website at <http://www.narrabri.nsw.gov.au/>

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

PART 6: PROJECT TIMELINE

It is expected that the relevant steps in the planning proposal process will be completed as set-out in the table below:

Milestone	Timeframe
Council endorse the Planning Proposal	March 2021
Gateway Determination issued by the Department of Planning, Industry and Environment	April 2021
Completion of technical assessment	May 2021
Public exhibition of the planning proposal and any required consultation with any public authorities	June - July 2021
Consideration of any submissions received made during public notification/consultation	July – August 2021
Refer proposal to Parliamentary Counsel and obtain Opinion	September 2021
Determination to make the LEP and notification of the LEP on legislation website	November 2021

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