

Amendment to the Newcastle City Centre Local Environmental Plan 2008

**To allow the use of temporary structures
on public land or public road for an
exhibition, meeting or community event
as exempt development.**

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Part 1 - Objectives or Intended Outcomes

To allow the use of temporary structures on public land or a public road for an exhibition, meeting or community event as exempt development.

Council licences a significant number of special events each year. Traditionally, these events were treated as exempt development. The recent removal of the use of temporary structures for community events from the exempt schedule of the Newcastle City Centre LEP 2008 will cause significant delay and expense. The reinsertion of the clause is considered an urgent matter by the Council.

Part 2 - Explanation of Provisions

Amend Newcastle City Centre Local Environmental Plan 2008 to insert clause 7 in Schedule 2 Exempt development which states that:

7 Use of public land or a public road for an exhibition, meeting or community event

Note: In the case of Crown land or land vested in or under the control of the Council, permission must be sought from the council or other authority responsible for managing the land concerned before any development (including exempt development) is carried out on the land. Where the land is a public road, permission must be sought from the appropriate roads authority under the Roads Act 1993 (usually the Council).

Under section 68 of the Local Government Act 1993, certain activities carried out on community land require approval from the local Council.

(1) Definition

In this clause:

Community event has the same meaning as in *State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007*.

(2) Plans of management

Must be consistent with any plan of management under the *Local Government Act 1993* or the *Crown Lands Act 1989* that applies to the land.

(3) Temporary structures

The erection and use of any temporary structure for the purpose of the exhibition, meeting or event must be exempt development or complying development under *State Environment Planning Policy (Temporary Structures and Places of Public Entertainment) 2007*.

(4) Bushfire prone land

The exhibition, meeting or event must not be carried out on bushfire prone land.

(5) Flood prone land

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

Part 3 – Justification

Section A - Need for the planning proposal

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

The planning proposal is not the result of any strategic study or report. There was previously a clause in the Newcastle City Centre LEP, similar to the one proposed to be listed, however, it was removed by the Department of Planning in March 2010 as part of its consideration of Amendment 1 to the Newcastle City Centre LEP. The reason given for its removal was that the erection and use of temporary structures was exempt development under State Environmental Planning Policy (Temporary Structures) 2007.

However clause 3 of Schedule 2 to the Temporary Structures SEPP states (in part):

3 *Erection and use of tent, marquee or booth for community event*

The erection and use of a tent, marquee or booth on land for a community event (being a community event that does not require development consent).

Within the Newcastle City Centre most community events are held on land zoned either RE1 Public Recreation or B4 Mixed Use. Other than 'environmental facilities' and 'environmental protection works' in the RE1 zone, nothing is permitted within those zones without consent.

As the use of temporary structures clause has been removed from the Exempt Schedule of the Newcastle City Centre LEP 2008 these uses will now require development consent. This planning proposal is proposing to amend the Newcastle City Centre LEP to reinstate the clause which will clarify that the use of temporary structures is exempt development. A similar provision exists in Newcastle LEP 2003.

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

Amending the Newcastle City Centre LEP 2008 to insert a clause 7 is the best means of achieving the objectives of the planning proposal as the use of temporary structures needs to be made exempt development in the LEP.

Council licences a significant number of community events each year and it is important that these events occur with minimal 'red tape' and delay.

3. *Is there a net community benefit?*

Community events by definition are beneficial to a wide range of the community. Many events are free of charge. Fetes, fairs, markets and the like benefit not only the stall holders but other businesses in the vicinity.

Section B - Relationship to strategic planning framework.

4. *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 proposal is consistent with the objectives and actions contained within the Lower Hunter Regional Strategy. Newcastle is identified as the Regional City of the Lower Hunter. Special events held in the city centre contribute to creating a strong vibrant city and many of the events are of interest to residents across the Lower Hunter Region.

5. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

Council's Community Strategic Plan is currently being developed however, it is unlikely to be in place before June 2011. The Newcastle Urban Strategy (NUS) is Council's local strategic planning document. The NUS is based on principles of 'Newcastle Urbanism' which strongly support community use of public spaces.

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

The planning proposal is consistent with State Environmental Planning Policies (refer to **Table 1**). The proposal does not duplicate or contradict the Temporary Structures SEPP. The intention is to address a matter that is not clearly addressed under the SEPP, that is, community events as defined are exempt development.

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

The planning proposal is consistent with Section 117 directions (refer to **Table 2**).

Section C - Environmental, social and economic impact.

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

The erection of temporary structures as exempt development would be of minimal environmental impact. It follows that the use of these structures would also be of minimal environmental impact. In addition the proposed clause states that community events must be carried out in accordance with any Plans of Management. The proposed clause also makes clear that to be exempt development, community events must not be carried out on bushfire prone land and that appropriate provisions are taken if community events are to be held on flood prone land.

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

There are no other likely environmental effects which will result from the planning proposal.

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

Inserting the proposed clause into the Newcastle City Centre LEP 2008 will have a positive social and economic impact as it will allow community events to be held without undue delay or the expense of preparing a development application and obtaining development consent. Council licenses a significant number of community events. As an example last year over 700 special events were held across the LGA of which 120 were designated as major events. These community events generate significant economic benefits for the Newcastle region. Therefore the reinsertion of the clause into the Exempt Schedule is considered an urgent matter by the Council.

Section D - State and Commonwealth interests.

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

There is adequate public infrastructure to support the planning proposal, as a clause similar to the proposed clause has previously been in the LEP. Inserting the proposed clause will not affect the amount of infrastructure which is needed to hold community events. Provisions in the clause ensure that community events are to have minimal environmental impact.

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

No consultation has been carried out at this stage. Consultation will occur with relevant State and Commonwealth Public Authorities identified as part of the gateway determination.

Part 4 – Community Consultation

It is proposed that the planning proposal will be placed on public exhibition for a minimum of 14 days as it is a low impact proposal.

Detailed information on the community consultation which is to take place will be provided in the gateway determination.

Table 1 - Consideration of State Environmental Planning Policies

	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy No 1—Development Standards	No	n/a	
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	n/a	
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	n/a	
State Environmental Planning Policy No 14—Coastal Wetlands	No	n/a	
State Environmental Planning Policy No 15—Rural Landsharing Communities	No	n/a	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	n/a	
State Environmental Planning Policy No 21—Caravan Parks	No	n/a	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	n/a	
State Environmental Planning Policy No 26—Littoral Rainforests	No	n/a	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	n/a	
State Environmental Planning Policy No 30—Intensive Agriculture	No	n/a	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	n/a	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	n/a	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	n/a	
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	n/a	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	n/a	
State Environmental Planning Policy No 44—Koala Habitat Protection	No	n/a	

State Environmental Planning Policy No 47—Moore Park Showground	No	n/a	
State Environmental Planning Policy No 50—Canal Estate Development	No	n/a	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	n/a	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	n/a	
State Environmental Planning Policy No 55—Remediation of Land	No	n/a	
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No	n/a	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	n/a	
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	n/a	
State Environmental Planning Policy No 64—Advertising and Signage	No	n/a	
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	n/a	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	n/a	
State Environmental Planning Policy No 71—Coastal Protection	No	n/a	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	n/a	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	n/a	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	n/a	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	n/a	
State Environmental Planning Policy (Infrastructure) 2007	No	n/a	
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	n/a	
State Environmental Planning Policy (Major Development) 2005	No	n/a	

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	n/a	
State Environmental Planning Policy (Rural Lands) 2008	No	n/a	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	n/a	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	Yes	Yes	The planning proposal does not duplicate or contradict the SEPP.
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	n/a	

Table 2 - 117 Directions

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	Not applicable	n/a
1.2 Rural Zones	Not applicable	n/a
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable	n/a
1.4 Oyster Aquaculture	Not applicable	n/a
1.5 Rural Lands	Not Applicable	n/a
2. Environment and Heritage		
2.1 Environment Protection Zones	Not Applicable	n/a
2.2 Coastal Protection	Not Applicable	n/a
2.3 Heritage Conservation	Not Applicable	n/a
2.4 Recreation Vehicle Areas	Not Applicable	n/a
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Not Applicable	n/a
3.2 Caravan Parks and Manufactured Home Estates	Not Applicable	n/a
3.3 Home Occupations	Not Applicable	n/a
3.4 Integrating Land Use and Transport	Not Applicable	n/a
3.5 Development Near Licensed Aerodromes	Not Applicable	n/a

	Applicable	Consistent
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Not Applicable.	n/a
4.2 Mine Subsidence and Unstable Land	Not Applicable	n/a
4.3 Flood Prone Land	Not Applicable	n/a
4.4 Planning for Bushfire Protection	Not Applicable	n/a
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes, the draft planning proposal is consistent with the Lower Hunter Regional Strategy.
5.2 Sydney Drinking Water Catchments	Not Applicable	n/a
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable	n/a
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable	n/a
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not Applicable	n/a
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable	n/a
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable	n/a
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable	n/a
6. Local Plan Making		
6.1 Approval and Referral Requirements	Not Applicable	n/a
6.2 Reserving Land for Public Purposes	Not Applicable	n/a
6.3 Site Specific Provisions	Not Applicable	n/a