

# **ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS**

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

**Local Government Area:** Albury

**Name of draft LEP:** Albury Local Environmental Plan 2010 (Amendment No. 17)

**Address of Land (if applicable):** N/A

**Intent of draft LEP:** Amend the Albury Local Environmental Plan 2010 (ALEP 2010) by including NSW Department of Planning & Environment Clause 4.2AA Exceptions to Minimum Lot Sizes for Certain Rural Subdivisions.

### **Additional Supporting Points/Information:**

The proposed Amendment seeks to allow for the more flexible use of land within Albury's rural areas, by adopting NSW Department of Planning & Environment Clause 4.2AA Exceptions to Minimum Lot Sizes for Certain Rural Subdivisions.

Given the wide range of land uses permitted within Albury's rural zones and the restrictions created by the current minimum lot size provisions, it has been decided to adopt Clause 4.2AA following discussions and advice from NSW DPE regional staff and is a model clause that has been adopted by a number of other regional and rural council's including: Greater Hume Shire, Walcha, Yass Valley, Upper Hunter and Tenterfield.

Whilst it is acknowledged that the subdivision of land within rural areas could create issues regarding land fragmentation and land use conflicts, these matters can be deferred to the development application, assessment and determination process.

<b>Evaluation criteria for the issuing of an Authorisation</b>	<b>Council response</b>		<b>Department assessment</b>	
	<b>Y/N</b>	<b>Not relevant</b>	<b>Agree</b>	<b>Not agree</b>
<b>(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)</b>				
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Yes			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Yes			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		Yes		
Does the planning proposal contain details related to proposed consultation?	Yes			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Yes			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Yes			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Yes			
<b>Minor Mapping Error Amendments</b>	<b>Y/N</b>			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		Yes		
<b>Heritage LEPs</b>	<b>Y/N</b>			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		Yes		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		Yes		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage		Yes		

Office been obtained?				
<b>Reclassifications</b>	<b>Y/N</b>			
Is there an associated spot rezoning with the reclassification?		Yes		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		Yes		
Is the planning proposal proposed to rectify an anomaly in a classification?		Yes		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		Yes		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		Yes		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		Yes		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		Yes		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		Yes		
<b>Spot Rezonings</b>	<b>Y/N</b>			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		Yes		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		Yes		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		Yes		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		Yes		

Does the planning proposal create an exception to a mapped development standard?		Yes		
<b>Section 73A matters</b>				
<p>Does the proposed instrument</p> <p>a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;</p> <p>b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or</p> <p>c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> <p>(NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).</p>	Yes			

**NOTES**

- Where a council responds ‘yes’ or can demonstrate that the matter is ‘not relevant’, in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.