

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:Bathurst Regional

Name of draft LEP:Bathurst Regional Local Environmental Plan 2014

Address of Land (if applicable):

Intent of draft LEP:

The Additional LEP Clauses Planning Proposal involves an amendment to the Bathurst Regional Local Environmental Plan 2014 to insert the following clauses:

Item	Proposed clause number	Clause name
1	2.8	Temporary use of land
2	4.1C	Minimum lot sizes for certain split zones
3	7.14	Drinking water catchment

The Planning Proposal aims to:

- a) Permit, with consent, uses on land (excluding the RU2 Rural landscape zone) within the Bathurst Regional LGA on a temporary basis up to 42 days in a calendar year;
- b) Permit the subdivision of land below the minimum lot size for lots with multiple zones; and
- c) Protect the Bathurst City drinking water supply from potential contaminants entering the waterway.

Additional Supporting Points/Information:

The Bathurst Regional LEP 2014 was gazetted on 18 November 2014. Since its gazettal Council has identified a number of additional clauses which would improve the operation of the Bathurst Regional LEP.

Temporary use of land

The proposed clause effectively makes the temporary use of land permissible with consent in any zone (except zone RU2 Rural Landscape) as long as Council is satisfied that the use will not compromise future development of the land, or have detrimental economic, social, amenity or environmental impacts on the land. It is proposed to limit the temporary use of land to a maximum of 42 days.

It is, however, not Council's intention to permit Commercial Motor Race Hosting (as defined in Clause 7.8 Mount Panorama commercial motor race hosting of the Bathurst Regional LEP 2014) as a temporary use. It is therefore Council's intention to use the model clause, with a modification excluding all lands zoned RU2 Rural Landscape.

Council wishes to include the clause in the Bathurst Regional LEP, as the clause will facilitate the temporary use of land that might otherwise be prohibited with the exception of land zoned RU2 Rural Landscape. The temporary use of land clause is a model clause which has been included in a large number of LEP's.

Council believes that the inclusion of the model clause (excluding land zoned RU2 Rural Landscape), will improve flexibility to cater for temporary uses of land within the Bathurst Region.

Drinking water catchment

Section 3.3 of the Australian Drinking Water Guidelines 2011 (updated Dec 2013) states that 'prevention is an essential feature of effective drinking water quality management. Preventative measures are those actions, activities and processes used to prevent hazards from occurring or reduce them to acceptable levels'. In particular, there should be a 'multiple barrier approach' and 'preventative measures should be applied as close to the source as possible, with a focus on prevention in catchments rather than sole reliance on downstream control'.

Development in drinking water catchments must consider likely impacts on the catchment, including measures to avoid, minimise or mitigate the impacts. Drinking water catchments and the associated Drinking Water Catchment Maps provide sufficient protection to assess a wider range of agricultural and other land uses on their merits without compromising the importance of protecting the drinking water catchments and drinking water quality.

Council considers that the inclusion of the model drinking water catchment clause within the Bathurst Regional LEP will increase the protection afforded to the City's drinking water.

Minimum lot sizes for certain split zones

Council, as part of the Bathurst Regional LEP 2014, rezoned a number of rural properties for residential purposes catering for the continuing growth of the Bathurst Region. Council has identified a number of properties which have multiple zones,

primarily a rural and a residential zone. Council has received a number of enquiries from landowners with the split zones seeking consent to subdivide along the zone boundary, creating a residential zoned development lot and a rural zoned residual lot (which may include an existing dwelling) which is below the minimum lot size.

Council is seeking to insert the minimum lot sizes for certain split zones clause within the LEP to be able to subdivide a property with a split zoning along the zone boundary even if there is an existing dwelling on the residual rural lot which is below the minimum lot size.

The existing provisions within the current LEP do not enable Council to create a subdivision as described above. The proposed clause is similar in nature to Clause 4.1D of the Port Stephens LEP 2013, clause 4.1B in Tamworth LEP 2010, Hornsby LEP 2013, 4.1A in Uralla LEP 2012.

Evaluation criteria for the issuing of an Authorisation (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)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
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			
Minor Mapping Error Amendments	Y/N			
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?		Not Relevant		
Heritage LEPs	Y/N			
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?		Not Relevant		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		Not Relevant		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		Not Relevant		

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		Not Relevant		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		Not Relevant		
Is the planning proposal proposed to rectify an anomaly in a classification?		Not Relevant		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		Not Relevant		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		Not Relevant		
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?		Not Relevant		
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?		Not Relevant		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		Not Relevant		
Spot Rezonings	Y/N			
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?		Not Relevant		
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?		Not Relevant		
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?		Not Relevant		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		Not Relevant		

Does the planning proposal create an exception to a mapped development standard?		Not Relevant		
Section 73A matters				
Does the proposed instrument 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?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or 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? (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).		Not Relevant		

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.