

Rezone land at Bowral St & Moss Vale Rd, Bowral from B4 to R3

Proposal Title : **Rezone land at Bowral St & Moss Vale Rd, Bowral from B4 to R3**

Proposal Summary : **Rezone Lot 1, DP 406617, Lot 15, DP 740276, Lot 6 Section E, DP 3807, and Lot 1, DP 513337, Bowral from B4 Mixed Use to R3 Medium Density Residential; apply a 700sqm lot size; and remove floor space ratios and height of building limitations from the site.**

PP Number : **PP_2013_WINGE_008_00** Dop File No : **13/10615-1**

Proposal Details

Date Planning Proposal Received :	28-Aug-2013	LGA covered :	Wingecarribee
Region :	Southern	RPA :	Wingecarribee Shire Council
State Electorate :	GOULBURN	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	53 Bowral Street		
Suburb :	Bowral	City :	Postcode : 2576
Land Parcel :	Lot 1, DP 406617		
Street :	444 Moss Vale Road		
Suburb :	Bowral	City :	Postcode : 2576
Land Parcel :	Lot 15, DP 740276		
Street :	446 Moss Vale Road		
Suburb :	Bowral	City :	Postcode : 2576
Land Parcel :	Lot 6 Section E, DP 3807		
Street :	448 Moss Vale Road		
Suburb :	Bowral	City :	Postcode : 2576
Land Parcel :	Lot 1, DP 513337		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Sydney-Canberra Corridor Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	4	No. of Dwellings (where relevant) :	20
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **In 2012, Council had a development application for a K-Mart development on the site. After negotiations with Council, the proposal included a 4,000sqm K-Mart plus warehouse and storage area, seven specialty stores, 5 residential dwellings (provided as shop-top affordable housing), and a basement carpark.**

On 27 February 2013, Council refused the development application as it believed the proposal did not provide a transition between the existing residential and commercial areas; it was out of character with surrounding development as well as other commercial

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development in the township; it didn't provide enough residential development to satisfy the residential sub-area character; and it wasn't complementary to the adjoining residential development as it would have presented a hard boundary between residential and commercial uses - contrary to the DCP requirements.

On 12 June 2013, Council resolved to rezone the subject land to ensure that more appropriately scaled and compatible residential development is permissible on the site. Council submitted a planning proposal but the Department sent back advice in July requesting further information in the Planning Proposal and suggesting that Council wait to see the outcome of a Court appeal before proceeding.

Court proceedings have been finalised.

Council resubmitted the planning proposal on 28 August 2013. This is considered the date of receipt for the review of the planning proposal and for processing.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objective is to "ensure that any future redevelopment of the site is consistent with and enhances the predominantly residential nature of the existing surrounding development".

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The explanation of provisions is to:

- amend LZN_007F for the subject land by removing the B4 Mixed Use Zone and replace it with R3 Medium Density Residential Zone,
- Amend LSZ_007F by changing the lot size to 'Q' (700sqm) for the subject land,
- Amend FSR_007B by removing floor space ratio 'O' from the subject land, and
- Amend HOB_007C by removing height of buildings 'J' from the subject land.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

3.1 Residential Zones

* May need the Director General's agreement

5.1 Implementation of Regional Strategies

5.2 Sydney Drinking Water Catchments

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Housing for Seniors or People with a Disability) 2004

Drinking Water Catchments Regional Environmental Plan No. 1

SEPP (Affordable Rental Housing) 2009

e) List any other matters that need to be considered :

Council identified that the following s117 Directions apply to the proposal:

1.1 Business and Industrial Zones. This Direction applies as it affects an existing business zone. The Direction requires that business areas be retained and that potential floor space not be reduced. The proposal will be **INCONSISTENT** with this Direction.

The proposal is not justified by a strategy or study, is not in accordance with the Regional Strategy, however, the Director General may be satisfied that the proposal is

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considered of minor significance. The subject land is only 7,800sqm. In an adjoining location, there is a significant area zoned B4 Mixed Use.

3.1 Residential Zones. This Direction applies because the proposal seeks to rezone land to a residential use. The proposal will be **CONSISTENT** with the Direction.

5.1 Implementation of Regional Strategies. This Direction requires planning proposals to be consistent with the Regional Strategy. The proposal will be **CONSISTENT** with the Direction as the Strategy identifies the need to provide opportunities for population and housing.

6.1 Approval and Referral Requirements. The proposal is **CONSISTENT** with the Direction as it does not introduce concurrence or referral requirements.

6.3 Site Specific Provisions. This Direction applies as the proposal involves the rezoning of a parcel of land. This proposal is **CONSISTENT** with the Direction.

Council also failed to identify that Direction 3.4 Integrating Land Use and Transport applies to the proposal. The proposal would be **CONSISTENT** with this Direction.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **The proposal is only inconsistent with Direction 1.1 Business and Industrial Zones as it proposes to rezone business land to residential uses. The subject land is considered a relatively minor scale and there are other ample areas in the general location that provide for mixed use development.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Some context maps have been provided, but Council will need to prepare suitable maps consistent with the Standard technical requirements for LEP maps prior to exhibition.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed to exhibit the draft plan for 28 days, on Council's website, at the customer service centre and at Bowral library. It also intends to notify the property owners notified during the exhibition of the K-Mart development application.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons : **Council has provided an adequate timeline for the completion of this planning proposal.**

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The proposal is generally adequate. Council has identified a concern with its B4 zoning in this particular location as it doesn't want large-scale developments, like the K-Mart complex, on this site. The site was intended as a transition from the medium density area to the B2 Local Centre area of Bowral town centre. As such, the character of the area and the supporting development control plan envisaged development far more residential in nature than the application lodged (and refused) for the subject land. Council has resolved to more clearly reflect its intentions for the site by rezoning the site to R3 Medium Density Residential.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Council's Principal LEP was notified in 2010.

Assessment Criteria

Need for planning
proposal :

Council refused a proposed K-Mart on the subject land in 2012 on the basis that the 'big box' style of the development was inappropriate in terms of bulk and scale and therefore unsympathetic to the surrounding residential land use.

To avoid similar outcomes and community anxiety in the future for this site, Council has considered a range of options.

1. Rely on improved DCP controls. The current DCP controls will be reviewed, however, Council considers it preferable to exclude certain types of development that would create a conflict between the LEP and the DCP. These restrictions are considered more appropriate through a rezoning to resolve any certainty about what is permissible (and preferred) land use in the zone.

2. Rezone the land to R3 Medium Density Residential. This is the most obvious rezoning choice given the location of the subject land adjoining similar R3 land to the south and east. The R3 Zone permits the same range of residential accommodation as the B4 Mixed Use Zone, however it does not permit hotel or motel accommodation, function centres, or any commercial premises (excluding neighbourhood shops).

Council considers this zone provides more opportunity for appropriate scaled and type of development. Under the previous LEP, this site was zoned 2(b) Medium Density and is therefore not considered a major policy change. Council has also 'back zoned' a similar area on Lackey Road that was previously zoned 2(b) Medium Density, upzoned to B4 Mixed Use and then rezoned to R3 Medium Density Residential.

3. Rezone part of the site to R3 Medium Density Residential and part B4 Mixed Use Development. The size of the subject land does not easily lend itself to identifying part of it for R3 and part B4 zonings. Council considers retaining any part of the site as B4 could still result in potential conflict with the surrounding R3 area.

Therefore, Council considers option 2 to be the most appropriate and will provide the most certainty for development outcomes.

When Council zoned the subject land (and the adjoining land on the western side of Moss Vale Road) as B4, it was considered to provide some strategic benefit as a transition between the residential areas and the local business centre. It has generally worked well and the B4 area west of Moss Vale Road is intended to be retained. However that site is considered to provide more strategic scale and location than the subject land.

Whilst the recent Court case upheld Council's concerns and objections to the proposed K-Mart development, Council is of the view that the Bowral DCP is not sufficient to deter what it considers to be inappropriate development on the subject land.

Consistency with
strategic planning
framework :

The proposal is generally consistent with the goals of the local strategy and the Regional Strategy in providing for increased housing opportunities and choice.

Environmental social
economic impacts :

Given the current B4 Mixed Use Zone has a residential component, rezoning the subject land to just R3 Medium Density Residential is not considered a major land use change

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other than the removal of some permitted commercial land uses from the zone. Therefore, the environmental and social impacts will be limited.

The Council will lose the perceived transition between the residential and commercial parts of Bowral in this location, however Council considers this appropriate given the overall benefits of being able to better control scale, bulk and use of the site into the future.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Sydney Catchment Authority**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The matter is appropriate and considered of a minor nature.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council report Bowral B4 Report 12 June 2013.pdf	Proposal	Yes
Council report - Bowral B4 Minutes 12 June 2013.pdf	Proposal	Yes
Council report - KMart DA 27 February 2013.pdf	Proposal	Yes
Planning Proposal_Delegation_Bowral B4.pdf	Proposal	Yes
Bowral B4 SCA comments.pdf	Proposal	Yes
28082013 - REVISED Planning_Proposal_Bowral B4-V2.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.1 Business and Industrial Zones**
3.1 Residential Zones

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- 5.1 Implementation of Regional Strategies
- 5.2 Sydney Drinking Water Catchments
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Additional Information :

It is recommended that the delegate of the Minister for Planning and Infrastructure determine under section 56(2) of the EP&A Act, that an amendment to the Wingecarribee LEP 2010 to provide for a rezoning of Lot 1, DP 406617, Lot 15, DP 740276, Lot 6, Section E, DP 3807, and Lot 1, DP 513337, Bowral from B4 Mixed Use to R3 Medium Density Residential, should proceed subject to the following conditions:

1.(a) the planning proposal is to be made publicly available for 14 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Infrastructure 2013).

2. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act:

* Sydney Catchment Authority (s117 Direction 5.2)

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material. The authority is to be given at least 21 days to comment on the proposal or to indicate that it will require additional time to comment on the proposal. The authority may request additional information or additional matters to be addressed in the planning proposal.

3. No public hearing required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.

4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

5. Council be offered the Minister's plan making delegation under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

6. SECTION 117 DIRECTIONS - It is recommended that:

(a) The Director General can be satisfied that the planning proposal is consistent with s117 Direction 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 5.1 Regional Strategies and 5.2 Sydney Drinking Water Catchment (when the above consultation has occurred), 6.1 Approval and Referral Requirements, 6.3 Site Specific Provisions;

(b) The Director General can be satisfied that inconsistencies with the s117 Direction 1.1 Business and Industrial Zones is justified as it is considered of minor significance;

(c) The Director General can be satisfied that inconsistencies with any other relevant s117 Directions are only of minor significance; and

(c)no further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

7. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons :

The proposal is considered minor and should be delegated back to council. The inconsistency with S117 Direction 1.1 is considered justifiable and minor.

There are no other issues to be addressed in the conditions.

Signature:



Printed Name:

Mark Parker

Date:

13th September 2013

Local Planning Manager