



**Planning Proposal
To
Rezone Land zoned B4 Mixed Use on the southern
entrance to Bowral to R3 Medium Density Residential.**

Planning Proposal

LOCAL GOVERNMENT AREA: WINGECARRIBEE SHIRE COUNCIL

ADDRESS OF LAND: Lot 1 DP 406617 (53 Bowral Street), Lot 15 DP 740276 (444 Moss Vale Road), Lot 6 Section E DP 3807 (446 Moss Vale Road), and Lot 1 DP 513337(448 Moss Vale Road), Bowral.

FIGURE 1 - REGIONAL LOCATION MAP



FIGURE 2- PRECINCT LOCATION MAP

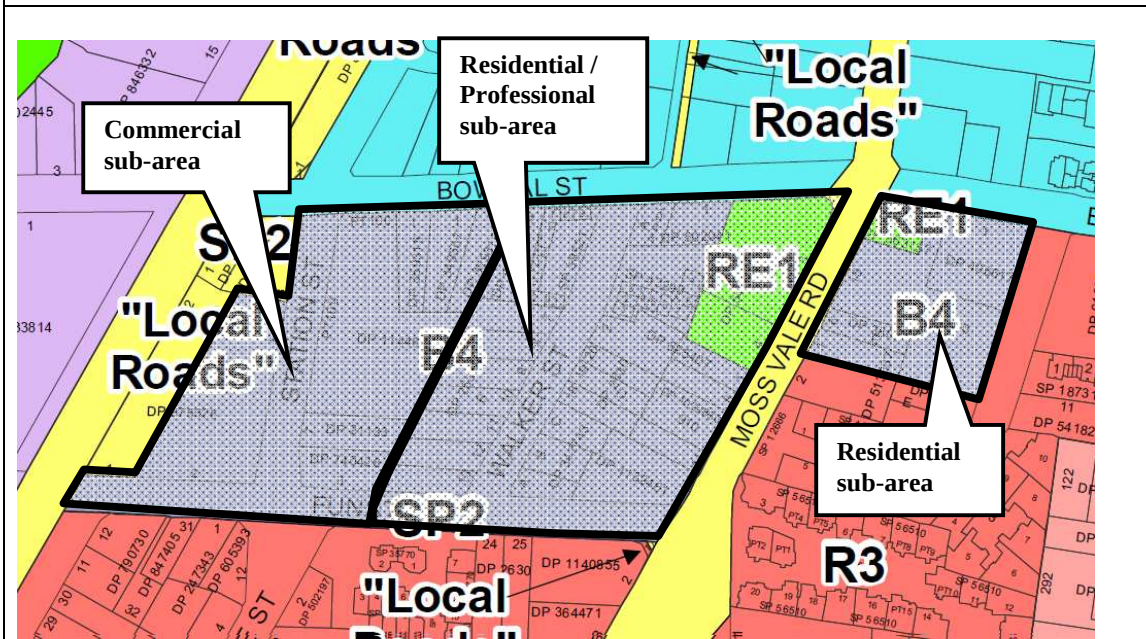
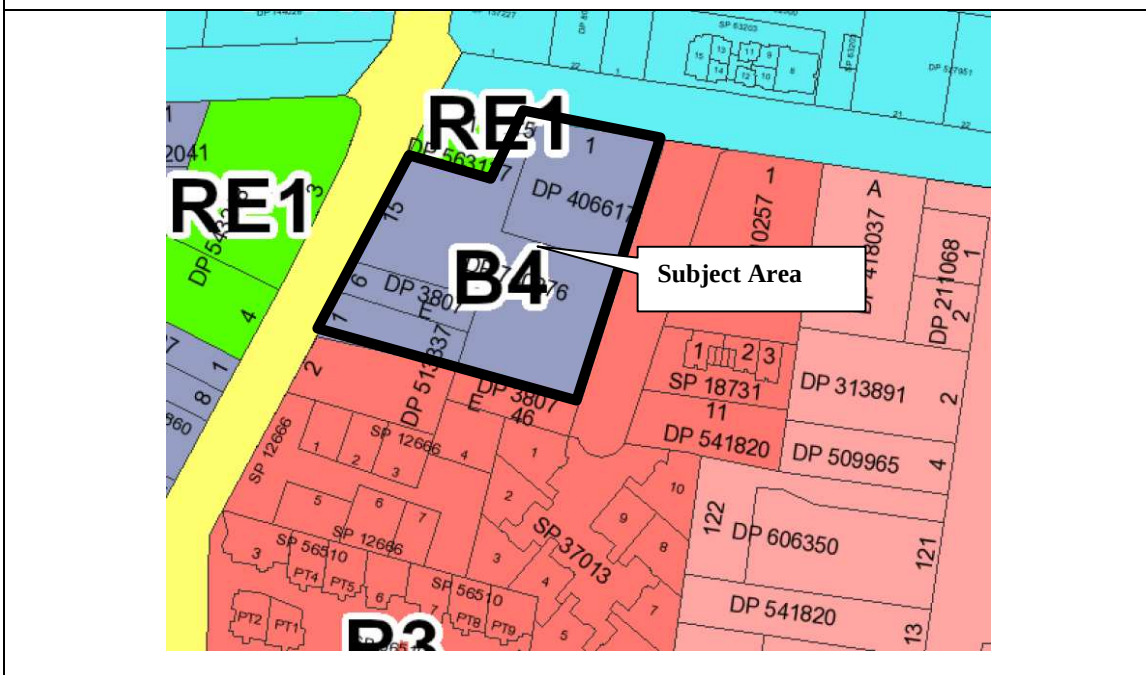


FIGURE 3 - SITE LOCATION MAP



PART 1 - OBJECTIVES OR INTENDED OUTCOMES OF PLANNING PROPOSAL

The purpose of the Planning Proposal is to ensure that any future redevelopment of the site is consistent with and enhances the predominantly residential nature of the existing surrounding development.

PART 2 – EXPLANATION OF PROVISIONS

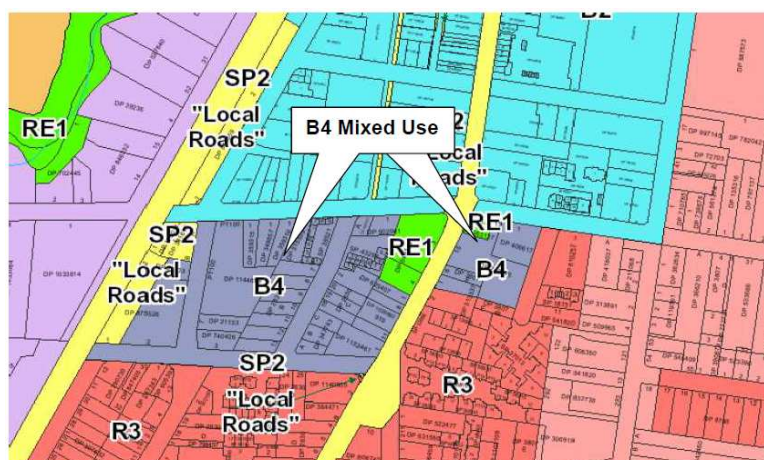
The provisions of the Planning Proposal will amend Wingecarribee Local Environmental Plan 2010 to rezone the subject land from B4 Mixed Use to R3 Medium Density Residential. The Floor Space ratio of 'O' (1.1:1) and the Maximum Building Height of 'J' (9 metres) will be removed from the site and the Minimum Lot Size of 'Q' (700sqm) will be applied.

Map to be amended	Nature of map amendment
LZN_007F	Remove B4 Mixed Use zoning over subject land and replace with R3 Medium Density Residential.
LSZ_007F	Insert Minimum lot size of 'Q' over subject land.
FSR_007B	Remove floor space ratio 'O' from subject land.
HOB_007C	Remove height of buildings 'J' from subject land.

The proposed revised maps are included in the Maps section of the Planning Proposal.

PART 3 - JUSTIFICATION

The B4 Mixed Use zone at the southern entrance to Bowral straddles Moss Vale Road and separates the R3 Medium Density Residential land to the south from the B2 Local Centre land to the north, as indicated below.



The objectives of the B4 Mixed Use zone stated in WLEP 2010 are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.

The Bowral Town Plan Development Control Plan (DCP) contains further guidelines for future development in the B4 zone:

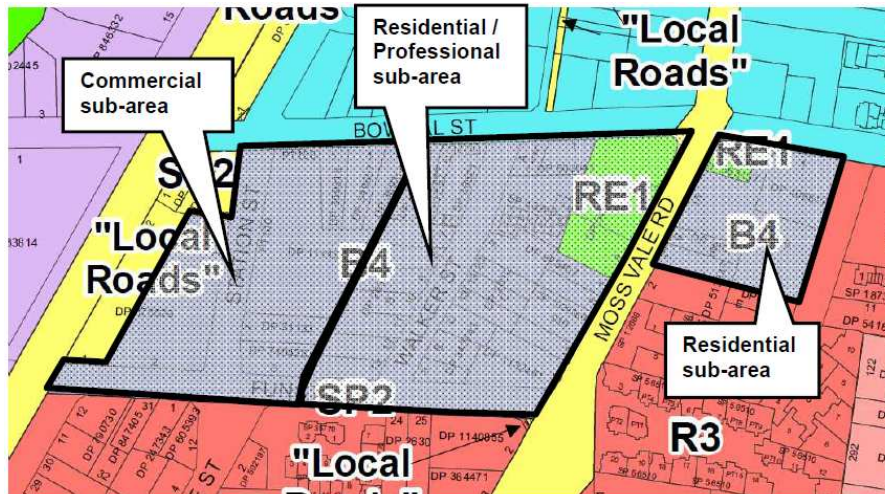
The location of the B4 Mixed Use zones within each of the three principal towns has been selected by Council to provide opportunities for site amalgamation and for redevelopment which achieves a cohesive layout and design. Council particularly seeks such an outcome where the B4 zone is at the entrance to the town.

In defining the preferred development outcomes for any of the B4 precincts, consideration was given to existing land use patterns and any specific land uses such as parkland, as well the nature of the zoning and land uses surrounding the B4 zone. Existing road networks around and through the zone, and the potential traffic implications of future development options were also considered.

The DCP also makes specific reference to the Bowral South Entrance Precinct, noting:

Because the Precinct extends across a number of road frontages it lends itself to a range of potential uses depending on which part is under consideration. To the west the precinct fronts both sides of Station Street; in the centre it fronts both sides of Walker Street as well as the southern side of Bowral Street and the western side of Moss Vale Road. To the east it fronts the southern side of Bowral Street and the eastern side of Moss Vale Road.

The two areas of RE1 Public Recreation have been included as they are relevant to the consideration of preferred development outcomes for this Precinct. Considering these surrounding elements provides a context within which to identify preferred development options for this Precinct. Council has identified three sub areas within this Precinct based on their different existing land use patterns and different focii in relation with surrounding land uses. These are depicted in the Figure below.



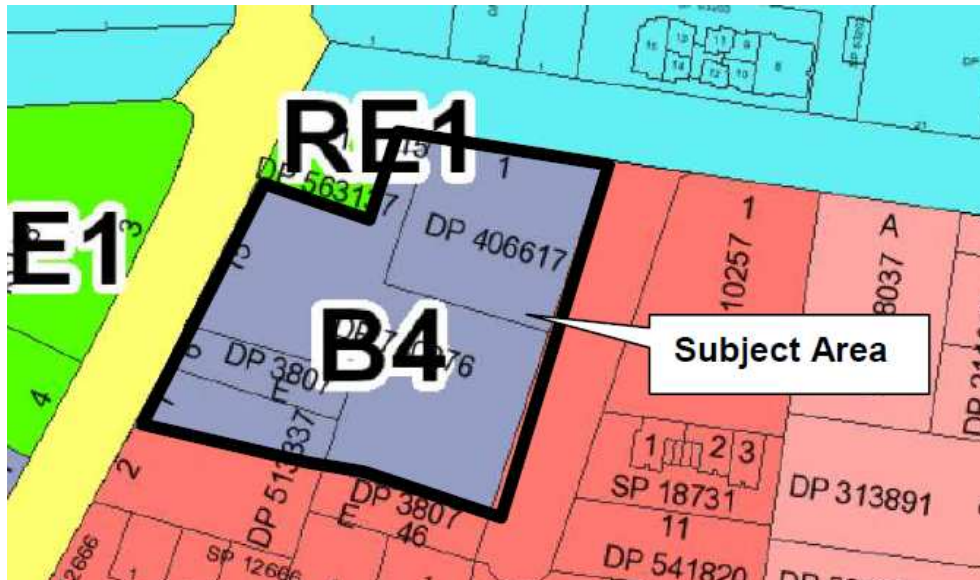
The Residential sub-area is located on the eastern side of Moss Vale Road where medium density development adjoins the area on the east and south. Residential flat buildings are permitted with consent in the adjoining R3 zoned land. Council would encourage redevelopment of this sub-area through site amalgamation and development which integrates with and complements surrounding development. Such development would also provide the opportunity for Landscaped Private Open Space to be integrated with the public parkland currently located there.

Because the Residential sub-area has a boundary to Moss Vale Road, any development proposal will need to be referred to the RMS for comment. Therefore the traffic-generation impacts of any development will need to be clearly enunciated in any proposal. It is anticipated that Bowral Street would be the preferred access point for any future redevelopment.

(End of extract from Bowral Town Plan DCP).

In 2012 Council received a land use application (LUA12/193) for a mixed use development over the B4 Mixed Use zoned land on the eastern side of Moss Vale Road, described as 'residential sub-area' in the Figure above.

This land comprises four (4) properties: Lot 1 DP 406617, Lot 15 DP 740276, Lot 6 Section E DP 3807 and Lot 1 DP 513337. All properties are currently in the one ownership. The total area of all lots is 7,817m². Details of the configuration of the lots are indicated in the Figure below.



Council refused LUA12/193 on the grounds that the 'big box' style of development was inappropriate in terms of bulk and scale being unsympathetic to the surrounding residential land use. It was considered that the proposal did not meet the objectives of the B4 zone and was refused. The applicant appealed to the Land and Environment Court and the appeal was rejected.

Council is conscious of the considerable impact on staff time, legal expenses and community concerns that LUA12/193 generated and is keen to avoid similar demands on Council resources and the local community in the future.

Council has considered three (3) options:

- a) Retain the B4 Mixed Use zoning and amend the DCP.
- b) Rezone the land to R3 Medium Density Residential.
- c) Rezone part of the area of R3 Medium Density Residential and leave the remainder as B4 Mixed Use.

a) Retain the B4 Mixed Use zoning & amend the Bowral Town Plan DCP.

LUA12/193 highlighted the inherent difficulties with the B4 zone, which, by definition, encourages a mixture of development but does not prescribe any particular formula or basis by which to establish an acceptable mix. Council has attempted through the DCP to control the style and scale of development, but the current controls do not appear to be sufficient to ensure an outcome that Council considers to be appropriate in terms of scale, bulk and neighbourhood amenity.

One option is to rely on improved DCP controls. The DCP already states that the subject area is defined under the DCP as a residential sub area, both my map and by description. This did not prevent a development application which comprised mainly commercial development in a building form whose bulk and scale are inappropriate for the surrounding residential development.

LUA12/193 was reported to Council on 27 February 2013. The report highlighted the problems with the proposed use to which a B4 zone can be put even with specific DCP controls in place. The report noted a number of issues which needed to be addressed, summarised as follows:

- The proposed development constitutes primarily one land use of the B4 Mixed Use zone and therefore does not provide a transition between residential and commercial development.*
- The development fails to provide any evidence of how it has regard to the character and amenity of adjacent and nearby residential development, as the submitted information assumes no impact.*
- The proposed development does not integrate an adequate variety of suitable permitted land uses in the Residential sub-area as described in the DCP, such as a mixed use Residential Flat Building/Commercial Retail premises.*
- The proposed development is not complimentary to adjoining residential development as it fails to provide a transition between residential and commercial development. Specifically the proposed development would create a hard boundary between residential and commercial development, which is contrary to the DCP.*

The report noted that notification/advertising of the development application resulted in excess of 250 letters of objection and a petition with over 1,500 signatures opposing the proposal. A copy of the report is ATTACHED.

The current DCP controls will be reviewed, however it would be preferable to exclude certain types of development and that would create a conflict between the LEP and the DCP. For example, Council would prefer to prohibit from the subject area hotel or motel accommodation, function centres and commercial premises with the exception of neighbourhood shops. These restrictions are considered better managed through a rezoning which would remove any uncertainty as to what is permissible in a zone and what is not.

b) Rezone the land to R3 Medium Density Residential

Because the B4 zoned land which is the subject of this report adjoins R3 Medium Density zoned land to the south and east, the most obvious rezoning option would be R3 Medium Density Residential.

The R3 Medium Density zone permits the same range of residential accommodation as the B4 Mixed Use zone, however it does not permit hotel or motel accommodation or function centres, nor does it permit any of the commercial premises uses permitted in the B4 zone with the exception of neighbourhood shops.

Medium density residential development offers more opportunity for building articulation and appropriate building scale. It allows for the integration of landscaped open space and building styles complementary to the existing surrounding residential land. It is also considered that there would also be less traffic impact compared with the type of mixed use development currently proposed for the site.

It is noted that under WLEP 1989 this land was zoned Residential 2(b) Medium Density. Compared with the 1989 LEP rezoning the land to R3 would not be a 'back zoning' of the land. Council has undertaken a similar rezoning from B4 to R3 (the land previously being Residential 2(b) under WLEP 1989) on Lackey Road as part of Amendment Number 4 to WLEP 2010.

c) Rezone part of the area to R3 Medium Density Residential

A third option is to rezone only part of the land to R3 Medium Density residential, retaining the balance as B4 Mixed Use.

The total area of all lots is approximately 7,817m² which does not offer a lot of area for a range of individual development options. Nor does the size and configuration of the four lots offer a clear delineation point between the two zones. There is no clear lot frontage to either Moss Vale Road or Bowral Street. Lot 15 fronts Bowral Street but continues all the way through the centre of the subject area and, although currently the lots are in a single ownership, that may not always be the case, creating a potential split zone for some lots.

It is considered that the retention of any B4 zoning on the subject area, while reducing the impact for a large scale development, could still retain the potential for conflict with the surrounding R3 zoned land through the continued permissibility of some non-residential land uses.

It is not considered that a mixture of R3 Medium Density Residential and B4 Mixed use is a viable option.

Council resolved at its meeting on 12 June 2013 to rezone the land to R3 Medium Density Residential. A copy of the Council report and resolution are ATTACHED.

Section A – Need for the Planning Proposal

1. Is the Planning Proposal the result of any strategic study or report?

The land was zoned B4 Mixed Use under WLEP 2010 when preparing the new Wingecarribee Local Environmental Plan to replace WLEP 1989. At that time Council considered it of strategic benefit to provide B4 Mixed Use land on the edges of the towns. In general this approach has worked well and it is intended to retain the B4 zone on the western side of Moss Vale Road which provides a more appropriate location for the commercial land uses permissible in the B4 zone than the land on the eastern side. It is noted that under WLEP 1989 the land was zoned Residential 2(b) Medium Density.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Based on the proposed development submitted as LUA12/193, the Bowral DCP is not sufficient to deter what Council considers to be inappropriate development. Rezoning the site seems to be the only way to achieve development more sympathetic to surrounding residential development and a Planning Proposal is the only way to achieve a rezoning.

The current DCP controls will be reviewed, however it would be preferable to exclude certain types of development and that would create a conflict between the LEP and the DCP. For example, Council would prefer to prohibit from the subject area hotel or motel accommodation, function centres and commercial premises with the exception of neighbourhood shops. These restrictions are considered better managed through a rezoning which would remove any uncertainty as to what is permissible in a zone and what is not.

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 (including draft strategies)?

The Sydney Canberra Corridor Regional Strategy refers to the need to provide opportunities for both economic development (Chapter 5) and population and housing (Chapter 7).

Council chose the B4 Mixed Use zone in order to offer new opportunities for both business and residential development within the Shire. The objectives of the B4 Mixed Use zone stated in WLEP 2010 are:

- To provide a mixture of compatible land uses.

- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.

However, LUA12/193 demonstrated that the range of land uses permitted with consent in the B4 Mixed Use zone do not always achieve these goals in a way that also respects the existing urban character.

Council stresses that this amendment is not just about LUA12/193. However it is clear that if our current controls and guidelines can result in such a development proposal then they need to be reviewed.

Given the residential nature of the surrounding development it was resolved to rezone the land to R3 Medium Density, the goals for which are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Council considers that this zone also supports the goals of the Regional Plan with an improved urban amenity outcome.

4. Is the Planning Proposal consistent with council's local strategy or other local strategic plan?

The use of the subject land for a predominantly residential use would meet several Goals from the 2031+ Community Strategic Plan, namely:

Goal 3.1.5 – Encourage cycling and walking.

Goal 3.3.1 – Strengthen the connectivity, livability and vibrancy of towns and villages.

Goal 3.3.2 – Ensure that future development respects the character of the area in which it is located, and to reinforce that character with appropriately sited and designed new development.

Goal 3.4.1 – Provide for housing types that match projected demographic and household needs in appropriate locations.

Goal 3.4.2 – Provide housing options in all towns and villages that will enable residents to age in their communities.

Goal 3.4.3 – Provide for higher density development within the towns of Mittagong, Bowral, Moss Vale and Bundanoon.

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

5.1 SEPP 55 – Remediation of Land

This SEPP requires Council to consider whether the subject land might require remediation due to potential contamination. Council's records indicate that the land is not contaminated. This preliminary assessment will be confirmed at the DA stage should a land use application be lodged.

5.2 SEPP (Affordable Rental Housing) 2009

Rezoning the subject land from B4 to R3 allows more opportunity to achieve the following objectives of this SEPP:

- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

The subject land is on the southern edge of the Bowral town centre with frontage to two roads. This location should lend itself to the creation of opportunities for the provision of affordable housing. The R3 zoning is considered to offer more potential for affordable housing than the B4 zone.

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

The location of the subject land should also lend itself to the creation of opportunities for the provision of housing for seniors or people with a disability. The R3 zoning offers the same level of permissibility for such development as does the B4 zone.

5.4 SEPP (Sydney Drinking Water Catchment) 2011

The SCA advises that it has no concerns with the Planning Proposal. A copy of the SCA response is attached.

6. Is the Planning Proposal consistent with applicable section 117 Directions?

1.1 Business and Industrial Zones

This Direction applies to the proposal because it is rezoning land from B4 Mixed Use to R3 Medium Density Residential.

The proposal is inconsistent with the Direction because it is reducing the amount of business zoned land in the Shire. Council is of the opinion that this inconsistency is justifiable because the location of the subject area is not well suited to commercial development and would be better suited to residential development which can achieve and contribute to other objectives, including the Affordable Housing and Seniors Housing SEPPs.

3.1 Residential Zones

This Direction applies to the proposal because it is rezoning land from B4 Mixed Use to R3 Medium Density Residential.

The proposal is consistent with this Direction because it is providing medium density development opportunities on the edge of Bowral township. The medium density zone provides a range of housing options including residential flat buildings.

5.1 Implementation of Regional Strategies

This Direction applies to the proposal because the Sydney-Canberra Corridor Regional Strategy applies to all development within Wingecarribee Shire.

The proposal is consistent with this Direction because The Sydney Canberra Corridor Regional Strategy refers to the need to provide opportunities for population and housing (Chapter 7) which the rezoning to R3 achieves.

5.2 Sydney Drinking Water Catchments

This Direction applies to the proposal because the Wingecarribee Shire is within the Sydney Drinking Water Catchment.

The proposal is consistent with this Direction because all Council's DCPs require that all SCA requirements are met. The SCA has no concerns with the Planning Proposal.

6.1 Approval and Referral Requirements

This Direction applies to the proposal because the subject land is adjacent to Moss Vale Road and RMS concurrence is required at the development application stage.

The proposal is consistent with this Direction because Council's development assessment process requires appropriate consultation and concurrence.

6.3 Site Specific Provisions

This Direction applies to the proposal because the subject land will be developed under the provisions of the Bowral DCP.

The proposal is consistent with this Direction because Council's LEP and Bowral DCP makes provision for the development of R3 land for a range of residential uses including residential flat buildings.

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 Planning Proposal?

No. Council is not aware of any critical habitats or threatened species in the vicinity of the subject site. It is considered that residential development is less likely to impact any local wildlife habitats compared with large scale commercial development.

8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No. It is considered that residential development is less likely to impact any local wildlife habitats compared with large scale commercial development.

9. Has the Planning Proposal adequately addressed any social and economic effects?

Council is zoning the subject land because LUA12/193 is considered by Council to be incompatible with the surrounding residential development. The Planning Proposal does not inhibit redevelopment of the site to provide additional housing choices adjacent to the Bowral town centre.

The site, located as it is on the southern edge of the Bowral Town Centre, will make a significant contribution to the Bowral economy regardless of the type of development located there. Medium density residential development would expand the customer base of the town centre with a consequent multiplier effect across the Shire.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

Yes, the site has good access to public transport and is within walking distance of the Bowral town centre.

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

The SCA has no concerns with the Planning Proposal.

PART 4 – MAPPING

The maps which are required to be amended have been identified above and are attached.

PART 5 – COMMUNITY CONSULTATION

It is proposed that a community consultation period of 28 days will occur. It is intended to:

1. advertise the Planning Proposal in the Southern Highland News.
2. Provide details on Council's website, at the customer service centre and at Bowral library.
3. notify the same property owners who were contacted during the exhibition of LUA12/193.

PART 6 – PROJECT TIMELINE

Lodgement of Planning Proposal (v.2) with DP&I.	28 August 2013
Gateway Determination	10 October 2013
Completion of Public Agency referrals	30 October 2013
Completion of Community Consultation	15 December 2013
Report to Council at completion of exhibition	12 February 2014
Return of completed Planning Proposal under delegation.	28 February 2014
Estimated completion date	30 March 2014

DELEGATIONS

Delegation is sought and the Evaluation form follows.

ATTACHMENTS

- Proposed map amendments
- Delegation Evaluation Criteria Form
- Report to Council
- Council Resolution
- Report to Council of LUA12/193
- Sydney Catchment Authority response.