

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: Wingecarribee Shire

Name of draft LEP: Rezone land zoned B4 on the southern entrance to Bowral to R3 Medium Density Residential.

Address of Land (if applicable): 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.

Intent of draft LEP: The purpose of the Planning Proposal is to ensure that the site is developed for residential purposes in accordance with the predominant residential nature of the surrounding development.

Additional Supporting Points/Information: The entire B4 Mixed Use land 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. In spite of these DCP Guidelines, Council received a land use application (LUA12/193) in 2012 for a mixed use development over the B4 Mixed Use zoned land on the eastern side of Moss Vale Road, as depicted in Figure 3 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.

In 2012 Council received a Land Use Application for a 'big box' style development covering the entire site, incorporating various commercial premises and residential flats. Council considered the proposed development to be of a bulk and scale 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 matter is currently before the Land and Environment Court. The report to Council on the LUA noted that:

- 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.

Council, at its meeting on 12 June 2013 resolved to rezone this area of B4 land to R3 Medium Density Residential to encourage development which better reflected the existing medium density residential development surrounding the site.

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?	Y		Y	

Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y		Y	
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y		Y	
Does the planning proposal contain details related to proposed consultation?	Y		Y	
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y		Y	
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			N
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			N
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		AGREE	
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		AGREE	
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?				
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?				
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	Not relevant		AGREE	
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?				
Is the planning proposal proposed to rectify an anomaly in a classification?				
Will the planning proposal be consistent with an adopted POM				

or other strategy related to the site?				
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?				
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?				
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?				
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?				
Spot Rezoning	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?	Y		Y	
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?	Y			N
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?	N		N	
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?				
Does the planning proposal create an exception to a mapped development standard?	N		N	
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?;	Not relevant		AGREE	

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).				
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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.