

cw-CS5 Planning Proposal to rezone certain land at the southern entrance to Bowral, being 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) from B4 Mixed Use to R3 Medium Density Residential.

Reference: PN224400, PN990500, PN990600, PN990700, 5901
Responsible Officer: Group Manager Strategic and Assets

PURPOSE

The purpose of this report is to present to Council zoning options to manage the future development of land currently zoned B4 Mixed Use on the eastern side of Moss Vale Road at the southern entrance to Bowral. It is recommended that the land be rezoned R3 Medium Density Residential.

DESCRIPTION OF PROPOSAL

BACKGROUND

Under Wingecarribee Local Environmental Plan 2010 (WLEP 2010) land at the southern entrance to Bowral is zoned B4 Mixed Use, as indicated on Figure 1 below.

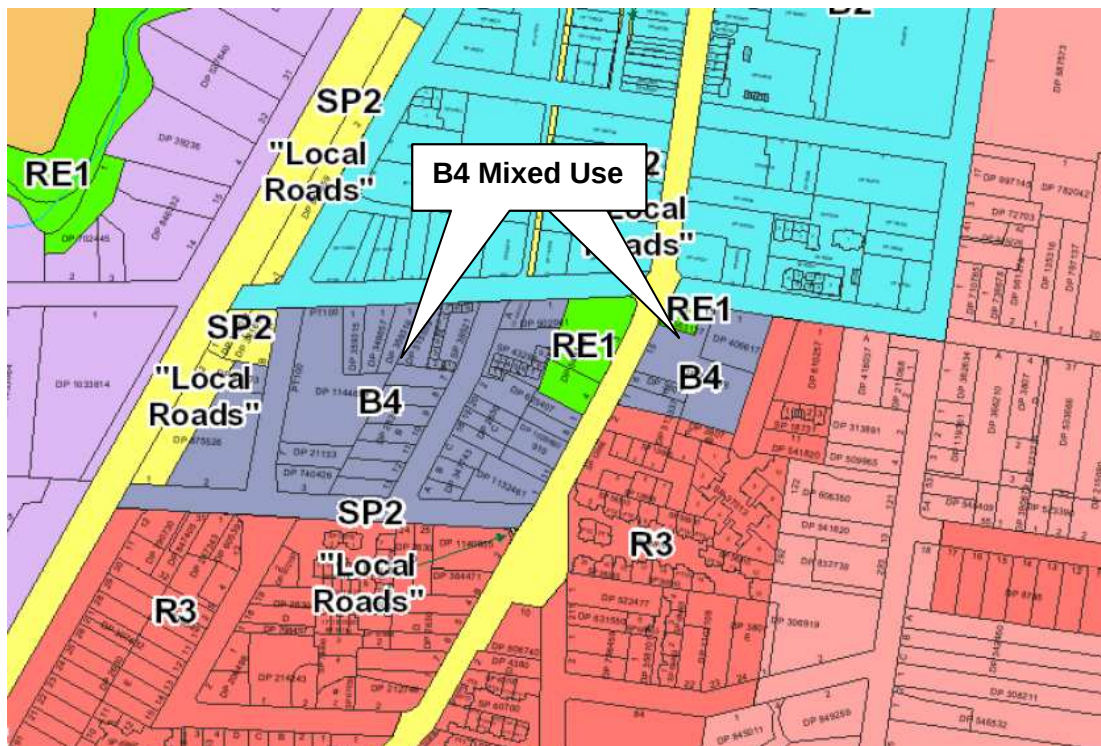


Figure 9 – Regional location of the subject land.

This B4 Mixed Use land straddles Moss Vale Road and separates the R3 Medium Density Residential land to the south from the B2 Local Centre land to the north. 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 extent of the precinct is indicated in below.

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 Figure B15.2 (of the Bowral DCP) below.

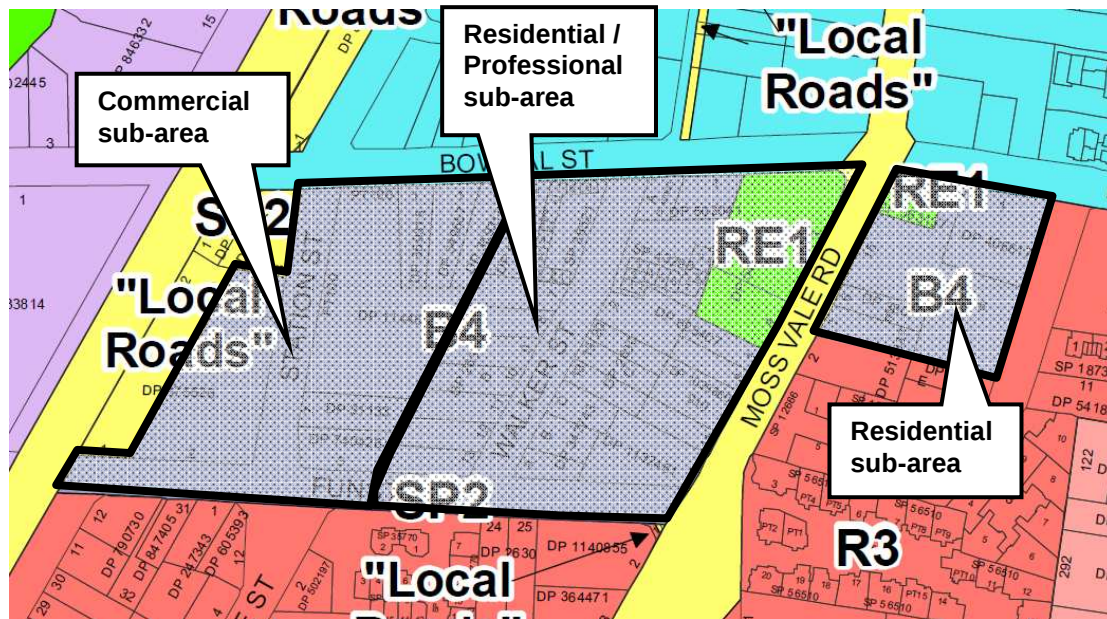


Figure B15.2 (of Bowral Town Plan DCP) – Southern Entrance Precinct sub-areas

The Commercial sub-area fronts Station Street. Its designation reflects the fact that Station Street and the adjacent railway line make this area less suited to residential development. Redevelopment of Station Street in recent years has focused on retail development and it is considered that such development would be appropriate for this part of the B4 precinct. Because this sub-area fronts Station Street, 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.

The Residential/Professional sub-area fronts Walker Street. There has already been some redevelopment of this area in recent years for professional offices. The density of this area remains low and the design style of buildings remains domestic. Council considers that further development in this way, incorporating multi-dwelling housing through the amalgamation of appropriate sites would be the best development outcome for this sub-area.

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 quotation from Bowral Town Plan DCP).

PLANNING CONSIDERATIONS

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, as indicated in Figure 2 below.

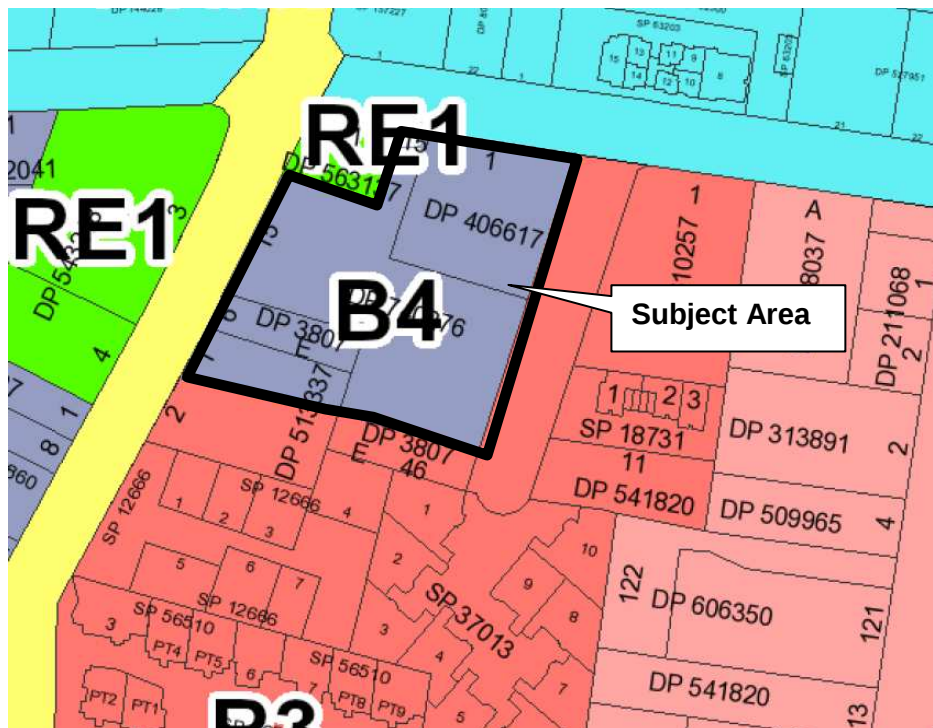


Figure 2 –B4 zoned land on eastern side of Moss Vale Road.

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.

The LUA12/193 was 'big box' in style 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.

The application highlighted the difficulty of clearly defining the type, bulk and scale of development sought by Council in the B4 Mixed Use zone, prompting a review of the zoning options for this B4 parcel of land. The issues of concern are further considered in the review of the Zoning Options below.

It is noted that this LUA12/193 is currently before the Land and Environment Court.

ZONING OPTIONS

Three (3) zoning options for this land are considered:

- a) Retain the B4 Mixed Use zoning.
- 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

LUA12/193 highlighted the inherent difficulties with the B4 zone, which, by definition, encourages a mixture of development, however 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 this does not appear to be sufficient to ensure what Council considers to be an appropriate outcome.

Because the subject land is surrounded by established residential development and is located at the entrance to Bowral township, Council believes there is merit in considering other zoning options for this land which can be more clearly prescribed through the Bowral Town Plan DCP.

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, there is merit in considering rezoning this land to R3 Medium Density Residential. It is noted that under WLEP 1989 this land was zoned Residential 2(b) Medium Density.

The R3 Medium Density zone permits the same range of residential accommodation as the B4 Mixed Use zone. It would 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.

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

A third option is to rezone part of the land to R3 Medium Density residential, retaining some of the B4 land as well.

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.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 June 2013

REPORT - DEPUTY GENERAL MANAGER CORPORATE & STRATEGY



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.

STATUTORY PROVISIONS

Wingecarribee LEP2010 (WLEP 2010)

If a rezoning of the subject land is supported, a Planning Proposal is required to amend WLEP 2010 under the Gateway Plan-making process which was introduced in July 2009. The Gateway Process has the following steps:

Planning Proposal - the relevant planning authority (Council) is responsible for the preparation of a planning proposal, which explains the effect of and justification for the plan. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Director-General of the Department of Planning or a joint regional planning panel to be the relevant planning authority.

Gateway - The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.

Community Consultation - the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.

Assessment - The relevant planning authority (Council) considers public submissions and the Proposal is varied as necessary. It is noted that clause 58 of the EP&A Act allows Council to vary, at any time, its Proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason. Council may also resolve to not proceed with the Planning Proposal under this clause.

If the Planning Proposal does proceed, Parliamentary Counsel then prepares a draft local environmental plan (the legal instrument).

Decision - With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW Legislation website.

Development Control Plans (DCPs)

The Bowral DCP contains provisions for both B4 Mixed Use and R3 Medium Density development in the 'residential sub-area' of the Southern Entrance, which covers the subject land, to remove references to the B4 zone and to reinforce the residential outcomes Council seeks.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policies (SEPPs) are a set of Environmental Planning Instruments with which Council must comply, where relevant, when considering amendments to WLEP 2010.

The *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* SEPP came into force on 1 March 2011 and applies to all land in Wingecarribee Shire. The SEPP requires that a consent authority must not grant consent to any development under Part 4 of the EPA Act unless it is satisfied that the development will have a neutral or beneficial effect (NORBE) on water quality.

Should Council support preparation of a Planning Proposal it will be forwarded to the SCA for comment before being submitted to DP&I for a Gateway Determination.

Section 117 Directions

The Minister for Planning, under section 117(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) issues Directions that Council must follow when preparing Planning Proposals. The Directions cover the following broad categories:

1. employment and resources
2. environment and heritage
3. housing, infrastructure and urban development
4. hazard and risk
5. regional planning
6. local plan making.

The s.117 Directions also require that the Planning Proposal be forwarded to the SCA for comment before being submitted to DP&I for a Gateway Determination.

CONSULTATION

External Referrals

No external consultation has yet occurred. Should Council resolve to proceed with a Planning Proposal and should Council receive a positive Gateway Determination, that Determination will advise Council with which authorities Council must consult.

Internal Referrals

The matter was considered by the Local Planning Strategy Sunset Steering Committee Working Group on 15 May 2013 at which time it was recommended to report the matter to Council considering the three options outlined in the report. The matter was also discussed with Environmental Assessment staff with regard to the land use application for the subject land lodged in 2012.

Community Consultation

No community consultation has occurred to date, however community consultation would occur should the proposal be supported and a positive Gateway Determination be received.

SUSTAINABILITY ASSESSMENT

- **Environment**

All proposed development must demonstrate at the LUA phase that the Neutral or Beneficial Effect (NORBE) requirements of the SCA have been satisfied. The Bowral Town Plan DCP also requires that any LUA demonstrate compliance with a range of environmental controls which include appropriate landscaping and ensuring that there is no night sky impacts from external lighting. It is noted that the surrounding residential urban environment appears to be incompatible with the B4 Mixed Use zone on the subject land, as demonstrated by LUA12/193.

- **Social**

Council is reviewing the zoning options for 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.

- **Broader Economic Implications**

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.

- **Culture**

There are no significant cultural impacts from development of the proposed site for either residential or business development.

- **Governance**

Should Council support the Planning Proposal and the Proposal receive a positive Gateway Determination by the DP&I, compliance with the requirements of the Environmental Planning & Assessment Act 1979 (EP&A Act), EP&A Regulations and the requirements of the Gateway Determination will ensure that due process is followed by Council in implementing amendments to WLEP 2010.

It is noted that the new legislation introduced in November 2012 requiring Council to determine a Planning Proposal submission within 90 days, otherwise the applicant can refer the matter to the DP&I for a Joint Regional Planning Panel (JRPP) review, does not apply in this case as the Council is the applicant.

RELATIONSHIP TO CORPORATE PLANS

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.

BUDGET IMPLICATIONS

There are no specific budget implications as any Council initiated Planning Proposal would be undertaken by Council staff.

RELATED COUNCIL POLICY

There are no related Council Policies other than those discussed in this report.

OPTIONS

Three (3) zoning options are considered in this report:

Option 1

Retain the B4 Mixed Use zoning.

Option 2

Rezone the subject land to R3 Medium Density Residential.

Option 3

Rezone part of the subject land to R3 Medium Density Residential, leaving the remainder as B4 Mixed Use.

Option 2 is recommended.

CONCLUSION

The review of the three zoning options concludes that rezoning the subject land to R3 Medium Density Residential is the preferred option because the land is surrounded by R3 Medium Density Residential zoned land and future residential development offers more opportunity for a compatible outcome compared with a large commercial based development such as that currently proposed for the site.

ATTACHMENTS

There are no attachments to this report.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 June 2013

REPORT - DEPUTY GENERAL MANAGER CORPORATE & STRATEGY



RECOMMENDATION

1. THAT Council resolve to prepare a Planning Proposal under section 55 of the Environmental Planning & Assessment Act 1979, to rezone 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) from B4 Mixed Use to R3 Medium Density Residential.
 2. THAT the property owners be informed of Council's decision.
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(Voting on the Motion)