

Planning Proposal

to amend Wingecarribee Local Environmental Plan 2010 to include 2, 4 & 6 Myrtle Street, Bowral, within the Bowral Conservation Area and create a new heritage item at 26 Elizabeth Street, Moss Vale

Prepared in accordance with the Local Environmental Plan Making Guideline (December 2021)

Version 2 for Public Exhibition

Prepared by Wingecarribee Shire Council

Council has categorised the Planning Proposal as Standard

June 2022

Working with you

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Appendices to this Planning Proposal report

1	Government Gazette notice for Interim Heritage Order No. 12 and Interim Heritage Order No. 13 published on 19 November 2021
2	Report to Council and Minutes 8 December 2021 re Interim Heritage Orders Nos. 12 & 13
3	Report to Council and Minutes 16 March 2022 re Planning Proposal and Heritage Assessment
4	Report to Council and Minutes 20 April 2022 re Confirmation of Resolution
5	Gateway Determination 23 May 2022
6	Agency Response from WaterNSW
7	Agency Response from Heritage NSW

Site Location, Description & Background

Legal Description	Lot 1 DP 840484, Lot 1 DP 741837 and Lot C DP 157898 Lot 1 DP 986025 and Lot 110 DP 87731
Property Address	2, 4 and 6 Myrtle Street, Bowral 26 Elizabeth Street, Moss Vale

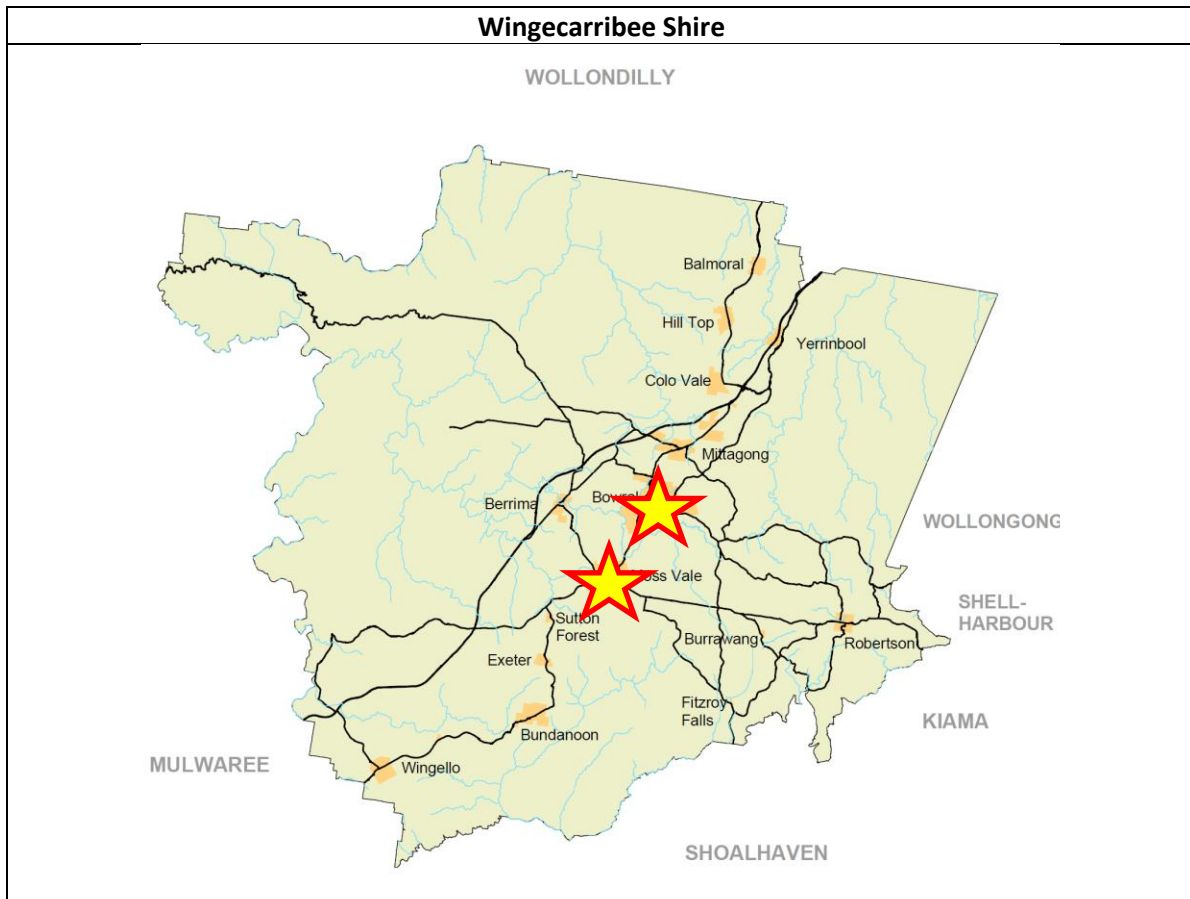


Figure 1: Location Map (Shire wide)

Description & Background

This Planning Proposal relates to four sites: three neighbouring properties in Myrtle Street, Bowral, and one in Elizabeth Street, Moss Vale, comprising two lots. **Figure 2** and **Figure 5** show the locations of the sites in the context of the towns of Bowral and Moss Vale, respectively, and **Figure 3** and **Figure 7** display aerial photographs of the sites.

2, 4 & 6 Myrtle Street, Bowral

These sites are located on the eastern side of Myrtle Street, Bowral, between Merrigang and Shepherd Streets. 2 & 4 Myrtle Street each contains a modest rendered brick and Marseilles terracotta tile roofed dwelling surrounded by established gardens with many mature tree species including a large pin oak, a large Liquidambar, numerous large conifers, a large Himalayan cedar

(deodar), established maples and various smaller ornamental and fruit trees. Additionally, no. 4 contains a fine trachyte retaining wall and trachyte paths in excellent condition. No. 6 Myrtle Street contains a recently renovated house and garden. The houses were built contemporaneously in 1949. Due to the topography which sees the ground level rise from Myrtle Street at a gradient of approximately 1:6 or 16%, all houses gain vehicular access from Oak Lane to the rear, creating a distinctive streetscape in Myrtle Street with no driveways or garages visible from the street on the eastern side.

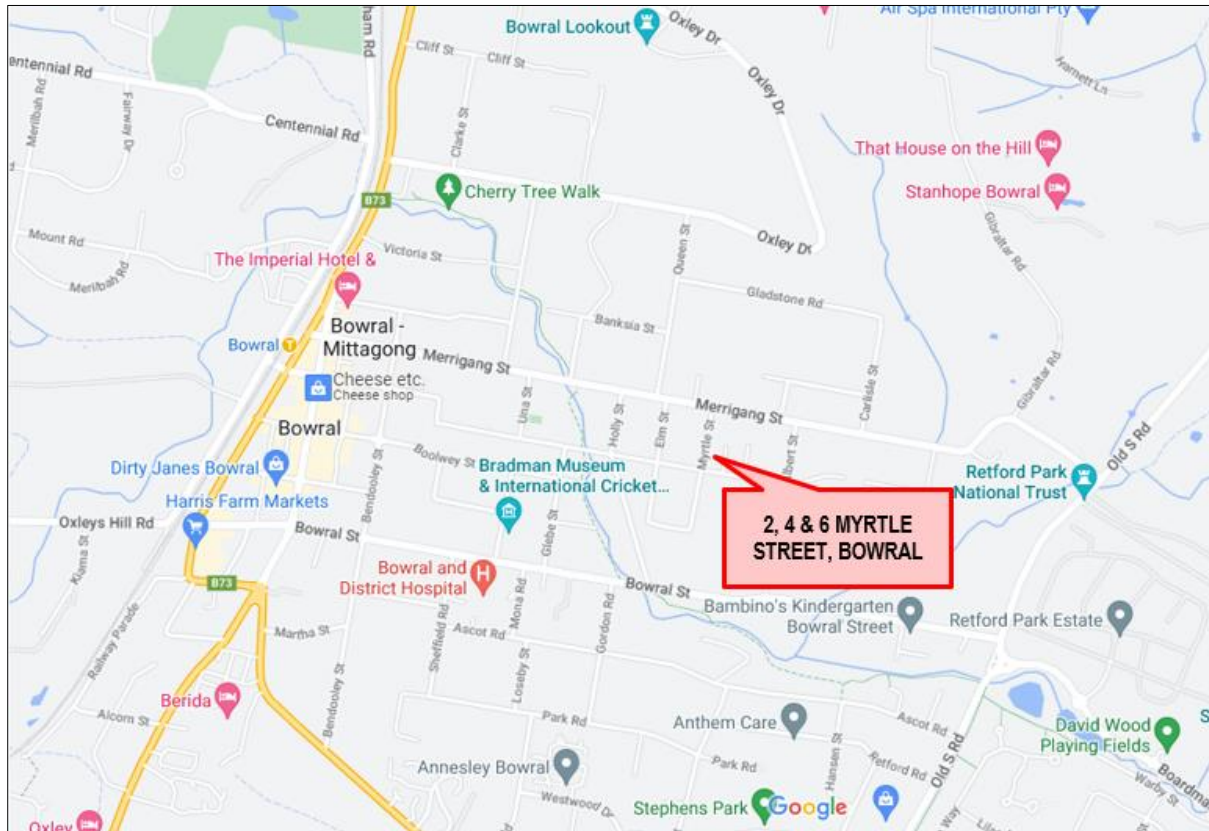


Figure 2: The location of 2, 4 & 6 Myrtle Street in the context of Bowral (source: Google Maps)

The houses were very likely designed and built by prominent Bowral based and prolific local builder, Alf Stephens Jnr from Alf Stephens & Sons Pty Ltd, although the original 1949 building applications have not been located in Council's records.



Figure 3: Aerial photo of 2, 4 and 6 Myrtle Street (Source: Nearmap, December 2021)

The Myrtle Street sites are zoned R3 Medium Density Residential with a minimum lot size of 700m². No. 2 Myrtle Street is 1,743m² in area, no. 4 is 1,623m² in area, and no. 6 is 1,620m² in area.



Figure 4: Photo of 2, 4 and 6 Myrtle Street from Myrtle Street (January 2022)

'Karingal', 26 Elizabeth Street, Moss Vale

The site known as 'Karingal' is located on the southern side of Elizabeth Street between Robertson Road and Valetta Street in Moss Vale. The property comprises two allotments: Lot 1 DP 986025 which contains the house and Lot 110 DP 877316 which contains the bulk of the garden, including the site of the former tennis court. **Figure 5** shows the location of 'Karingal' in the context of the town of Moss Vale and **Figure 7** shows an aerial photo of the property.

The house was built c.1927 (Interwar period) in a Californian Bungalow style out of dark local bricks (Bowral bricks) on trachyte foundations with a terracotta tile roof and matching brick and trachyte front fence that spans the width of the nearly 50 metre street frontage. The house is substantially intact although some alterations have been made over time. The grounds are substantially intact except for several senescent trees that were removed near the rear boundary, a large oak tree removed at the front of the house after being seriously damaged by a lightning strike in 2013, and the removal of the tennis court which has been replaced by a parterre garden immediately adjacent to the house to the east. **Figure 6** shows a photo of 'Karingal' from the street.

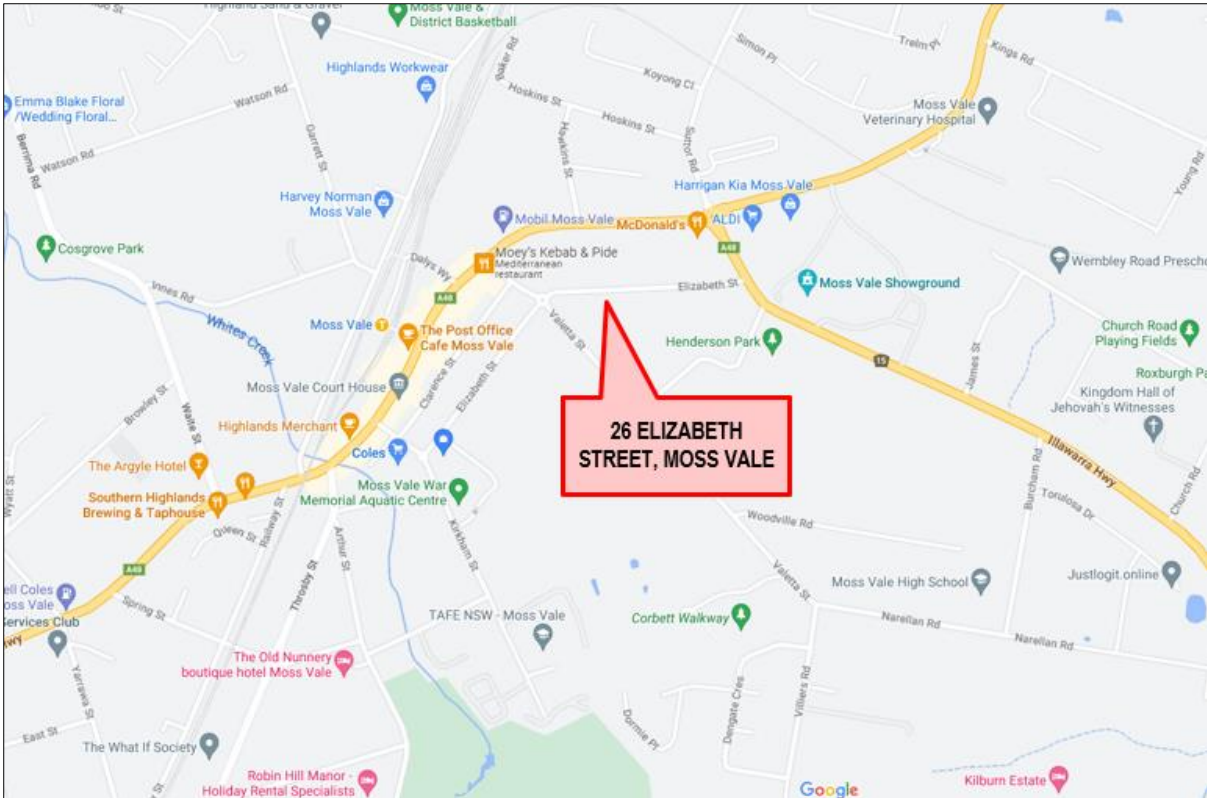


Figure 5: The location of 26 Elizabeth Street in the context of Moss Vale (source: Google Maps)



Figure 6: Photo of 'Karingal' from the street showing the gardens and brick & trachyte fence (January 2022)

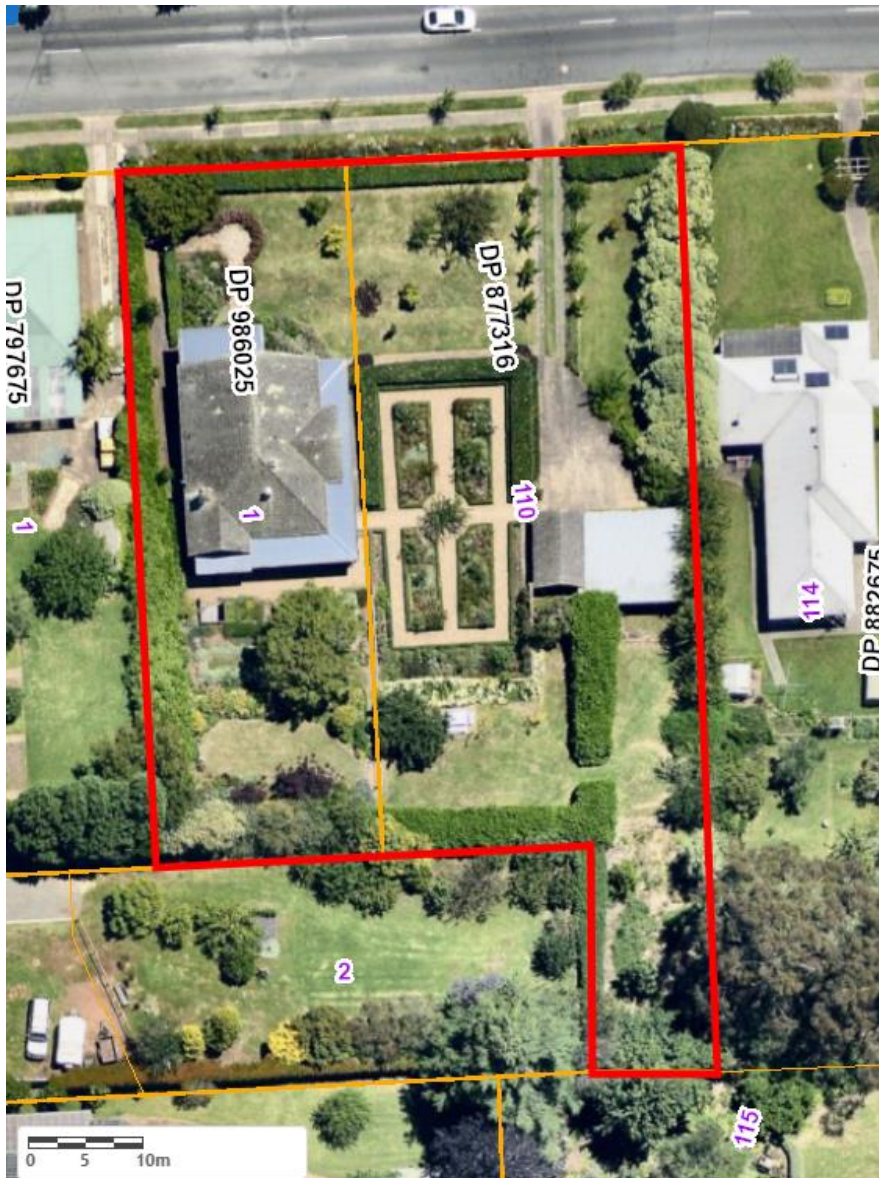


Figure 7: Aerial photo of 'Karingal' with cadastral boundaries (Source: Nearthmap, December 2021)

Elizabeth Street, including no. 26, is zoned R3 Medium Density Residential and has a minimum lot size of 700m². The total site area of the two lots that comprise 'Karingal' is 3,239m² making it the second largest land holding in this section of Elizabeth Street. (No. 8 Elizabeth Street is significantly larger than the subject site but contains an early 20th Century single dwelling and a multi-unit housing development dating from the mid-20th Century.) Given the size of the site and the medium density zoning, the site is under development pressure as a desirable development site.

Interim Heritage Orders and Heritage Assessments

In late 2021, concern was separately expressed by members of the community to Council regarding a complying development proposal to demolish the house at 4 Myrtle Street, Bowral, and replace it with terrace style housing, and two development proposals over 26 Elizabeth Street, Moss Vale, for medium density housing and subdivision. Given the threat to the potential heritage significance of these properties, two interim heritage order (IHOs) were made under delegations given to the Council by the Minister. Interim Heritage Order No. 12 over 2 & 4 Myrtle Street, Bowral, and Interim Heritage

Order No. 13 over 26 Elizabeth Street, Moss Vale, were published in the NSW Government Gazette on 19 November 2021. The Gazette notice is included as **ATTACHMENT 1**. The IHOs were reported to Council on 8 December 2021 and a copy of that report is included as **ATTACHMENT 2**.

On 2 March 2022, the heritage assessments for 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale, were reported to the Wingecarribee Local Planning Panel meeting. The officer's recommendations were supported by the Planning Panel and the report was subsequently presented to the Ordinary Council meeting of 16 March 2022 for the consideration of the Interim Administrator. A copy of that report (together with attachments) is included as **ATTACHMENT 3**. The officer's recommendations were endorsed by the Interim Administrator, as follows:

MN 2022/44

1. *THAT the Panel supports the heritage assessment and proposed heritage listing of "Karingal' Interwar bungalow and garden including brick and trachyte fence" comprising Lot 1 DP 986025 and Lot 110 DP 877316 and located at 26 Elizabeth Street, Moss Vale.*
2. *THAT the Panel supports the heritage assessment and proposed inclusion of 2, 4 and 6 Myrtle Street, Bowral, comprising Lot 1 DP 840484, Lot 1 DP 741837 and Lot C DP 157898, within the Bowral Conservation Area.*
3. *THAT the Panel supports the Planning Proposal prepared under section 3.33 of the Environmental Planning & Assessment Act 1979 to amend Schedule 5 of the Wingecarribee Local Environmental Plan 2010 to add "Karingal' Interwar bungalow and garden including brick and trachyte fence" as a new heritage item, and amend the Heritage Map of the Wingecarribee Local Environmental Plan 2010 to include 26 Elizabeth Street, Moss Vale, as a heritage item (general) and 2, 4 and 6 Myrtle Street, Bowral, within the boundaries of the Bowral Conservation Area.*
4. *THAT the Planning Proposal be sent to the Department of Planning and Environment with a request for a Gateway Determination in accordance with section 3.34 of the Environmental Planning & Assessment Act 1979.*
5. *THAT Interim Heritage Order No. 12 and Interim Heritage Order No. 13 are extended until 19 November 2022 to allow for the preparation and processing of the Planning Proposal.*
6. *THAT the affected property owners and residents, applicants of DA 22/0513 and DA 22/0535, and interested community members be advised of this decision.*

On 20 April 2022 the above resolution was amended to replace references to *the Panel* with *Council* to ensure that there was no ambiguity. This resolution is reproduced below and the full report is included as **ATTACHMENT 4**:

MN 2022/71

1. *THAT Council supports the heritage assessment and proposed heritage listing of "Karingal' Interwar bungalow and garden including brick and trachyte fence" comprising Lot 1 DP 986025 and Lot 110 DP 877316 and located at 26 Elizabeth Street, Moss Vale.*
2. *THAT Council supports the heritage assessment and proposed inclusion of 2, 4 and 6 Myrtle Street, Bowral, comprising Lot 1 DP 840484, Lot 1 DP 741837 and Lot C DP 157898, within the Bowral Conservation Area.*
3. *THAT Council supports the Planning Proposal prepared under section 3.33 of the Environmental Planning & Assessment Act 1979 to amend Schedule 5 of the Wingecarribee Local Environmental Plan 2010 to add "Karingal' Interwar bungalow and garden including*

brick and trachyte fence” as a new heritage item, and amend the Heritage Map of the Wingecarribee Local Environmental Plan 2010 to include 26 Elizabeth Street, Moss Vale, as a heritage item (general) and 2, 4 and 6 Myrtle Street, Bowral, within the boundaries of the Bowral Conservation Area.

4. *THAT the Planning Proposal be sent to the Department of Planning and Environment with a request for a Gateway Determination in accordance with section 3.34 of the Environmental Planning & Assessment Act 1979.*
5. *THAT Interim Heritage Order No. 12 and Interim Heritage Order No. 13 are extended until 19 November 2022 to allow for the preparation and processing of the Planning Proposal.*
6. *THAT the affected property owners and residents, applicants of DA 22/0513 and DA 22/0535, and interested community members be advised of this decision.*

On 15 April 2022 the Planning Proposal was submitted to the Department of Planning and Environment via the NSW Planning Portal with a request for a Gateway Determination. The submission included a request for delegation of plan making functions to Council under section 3.36 of the Environmental Planning & Assessment Act 1979. Agency referrals were also undertaken on 15 April 2022 to Heritage NSW, WaterNSW, and the Rural Fire Service. Responses have been received from Heritage NSW and WaterNSW which are summarised in Part in Part 5 of this Planning Proposal (see page 32). No response has been received from the Rural Fire Service.

The Gateway Determination was issued on 23 May 2022, a copy of which is provided at **ATTACHMENT 5**. Council was not, however, provided with delegation to exercise its plan making functions in relation to this Planning Proposal under section 3.36 of the Environmental Planning & Assessment Act 1979.

Part 1 - Objectives & Intended Outcomes of the Planning Proposal

Objective

The objective of this Planning Proposal is to provide ongoing protection for four sites that have been assessed as having heritage significance in Bowral and Moss Vale.

Intended Outcomes

- To include 2, 4 and 6 Myrtle Street, Bowral, within the existing Bowral Conservation Area.
- To include 26 Elizabeth Street, Moss Vale, as a new heritage item to be called “*Karingal’ Interwar bungalow and garden including brick and trachyte fence*”.
- To provide protection to properties using existing heritage provisions contained in the Wingecarribee Local Environmental Plan (WLEP) 2010 and applicable Development Control Plans.
- To provide for a savings provision to apply for any development application lodged but not yet determined prior to the making of the LEP.

Part 2 - Explanation of the Provisions

To achieve the intended outcomes of the Planning Proposal the following amendments to the WLEP 2010 instrument will be required:

- Add to clause 1.8A Savings provision relating to development applications the following sub-clause (where *Amendment No xx* is replaced by the actual amendment number, once made):

Clause 1.8A Savings provisions relating to development applications

Insert after clause 1.8A(4)—

(5) An amendment made to this Plan by *Wingecarribee Local Environmental Plan 2010 (Amendment No xx)* does not apply to a development application made but not finally determined before the commencement of the amendment.

- Add to Schedule 5, Part 1 (Heritage Items) the following new item:

Suburb	Item Name	Address	Property description	Significance	Item No.
Moss Vale	‘Karingal’ Interwar bungalow and garden including brick and trachyte fence	26 Elizabeth Street	Lot 1 DP 986025 and Lot 110 DP 877316	Local	I1521

To achieve the intended outcomes of the Planning Proposal the following amendments to WLEP 2010 maps will be required:

Map(s) to be Revoked	Map(s) to be Adopted
Heritage Map – Sheet HER_007C 8350_COM_HER_007C_020_20170327	Heritage Map – Sheet HER_007C (as amended)
Heritage Map – Sheet HER_007E 8350_COM_HER_007E_020_20170123	Heritage Map – Sheet HER_007E (as amended)

Part 3 - Justification of Strategic & Site-specific Merit

Section A – Need for the Planning Proposal

1 - Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?

The Planning Proposal is the result of a combination of in-house assessment and consultant assessment of the heritage significance of two neighbouring sites in Myrtle Street, Bowral (nos. 2 & 4) and 26 Elizabeth Street, Moss Vale. No. 4 Myrtle Street and 26 Elizabeth Street were both subject to proposed developments which threatened the heritage significance of these properties and were the cause of concern for members of the community who requested Council issue Interim Heritage Orders over both properties. Interim Heritage Order No. 12 over 2 & 4 Myrtle Street, Bowral, and Interim Heritage Order No. 13 over 26 Elizabeth Street, Moss Vale, were published in the NSW Government Gazette on 19 November 2021.

The heritage assessments, undertaken in accordance with the NSW Heritage Manual and the NSW Heritage publication “Assessing Heritage Significance”, concluded that the house, grounds and front fence at 26 Elizabeth Street, Moss Vale, were worthy of local heritage listing being found to have met five out of the seven heritage assessment criteria on a local level (namely historical, associational, aesthetic/technical, rarity and representativeness). This reinforced the findings of a 2009 study by heritage consultants on behalf of Council that recommended that the site be heritage listed.

The heritage assessment for 2 & 4 Myrtle Street, Bowral, did not demonstrate strong heritage characteristics in the buildings themselves, but heritage significance was considered to be present in the association with the probable builder, the fact that the group of three (including no. 6) is still extant, and the high streetscape character values. As a result, the in-house heritage assessment concluded that protection of streetscape values could be achieved through inclusion of the properties within the existing Bowral Conservation Area which lies just to the west of Myrtle Street.

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

The Planning Proposal is the only way of achieving the statutory local listing of a heritage item and to include a property within a heritage conservation area.

Section B – Relationship to the Strategic Planning Framework

3 - Will the Planning Proposal give effect to the objectives and actions of the SE & Tablelands Regional Plan (including any draft plans or strategies)?

The Wingecarribee Shire is within the area subject to the South East and Tablelands Regional Plan 2036. This plan is currently under review and a draft is not yet available. The relevant sections of the current plan (2036) are addressed below in relation to this Planning Proposal:

Vision

In its Vision, the Regional Plan recognises that there are areas of distinct character and heritage that are celebrated by their communities within the Region. Identification and listing of areas and sites of cultural heritage provides greater certainty for property owners and developers.

Goal 1: A Connected and Prosperous Economy

- **Direction 9: Grow Tourism in the Region** – heritage tourism is a strong tourism theme in the Wingecarribee Shire and one that continually attracts tourists to the area. The enhancement of heritage tourism through the protection of historic places and streetscapes assists in maintaining and growing tourism within the Shire.

Although there are no specific Actions under this Goal or Directions that directly relate to heritage, the Planning Proposal is consistent with Goal 1.

Goal 2: A diverse environment interconnected by biodiversity corridors

There are no Directions or Actions relevant to heritage under this Goal. However, the Planning Proposal does not affect or undermine any of the Directions or Actions under Goal 2.

Goal 3: Healthy and Connected Communities

- **Direction 23: Protect the region's heritage** – the identification of places of heritage significance through heritage studies and heritage assessments is consistent with this direction. The Planning Proposal is consistent with Action 23.1 (Undertake and implement heritage studies, including regional Aboriginal cultural heritage studies, to inform local strategies) and Action 23.3 (Conserve heritage assets during local strategic planning and development).

The Planning Proposal is consistent with the relevant Direction and Actions under Goal 3.

Goal 4: Environmentally sustainable housing choices

- **Direction 24: Deliver greater housing supply and choice** – this direction focuses on delivery of greater housing supply and choice which should be achieved while protecting areas of high value, including high cultural heritage value. The subject sites are identified as being of heritage value that warrant protection.

It is recognised that heritage listing of places has a direct impact on developability of those places as heritage mainly has a subduing effect on developability. The four sites that are subject to this Planning

Proposals are within existing R3 Medium Density Residential zone and heritage listing or inclusion in heritage areas will limit the amount to which these sites can be developed for housing. However, planning is responsible for orderly and appropriate development and limiting development on heritage significant sites and within heritage areas is justified. Therefore, the Planning Proposal is consistent with Goal 4.

Local Government Narratives

One of the stated priorities for the Wingecarribee Shire in the Local Government Narratives section of the Regional Plan is to “protect the Shire’s valued heritage assets”. This Planning Proposal is consistent with that priority.

4 - Is the Planning Proposal consistent with Council’s adopted and endorsed Local Strategic Planning Statement and Local Housing Strategy?

Wingecarribee 2040: Local Strategic Planning Statement

The Wingecarribee 2040: Local Strategic Planning Statement (LSPS) was adopted by Council on 24 June 2020. The following Planning Priorities and Actions under the umbrella of “Our Places” in the LSPS are relevant to this Planning Proposal. A comment on each is provided.

LSPS Priority & Action	Comment
Planning Priority 6.1: Maintain the unique character of our towns and villages, separated by rich natural areas and rural landscapes	
Action i. Adopt a place-based approach to planning in local towns and villages to ensure that their special character is preserved.	The identification of elements within towns and villages that require protection and place-based controls is consistent with this action.
Planning Priority 6.2: Identify, protect and promote our cultural and built heritage	
Action i. Continue to implement best practice management and assessment of both Aboriginal Cultural Heritage and Non-Aboriginal Heritage sites in collaboration with the community.	Best practice management of heritage sites commences with identification and assessment in accordance with the heritage assessment criteria and subsequent listing, if warranted. The proposed listing of ‘Karingal’ and the inclusion of properties in Myrtle Street within an existing heritage conservation area is consistent with this action.
Action ii. Review and maintain heritage listings in Wingecarribee LEP to facilitate the conservation of the Shire’s heritage.	The Planning Proposal is consistent with this action to ensure that the list of heritage items is dynamic and is added to and reviewed regularly and as potential items are identified.

Furthermore, the Bowral Precinct Plan contained in the LSPS identifies “Heritage precincts and individual items of Heritage” as contributory elements in the character assessment of Bowral. The

expansion of the Bowral Conservation Area to include properties in Myrtle Street will be adding to these contributory elements of Bowral.

Wingecarribee Local Housing Strategy: Housing Our Community

The Wingecarribee Local Housing Strategy: *Housing Our Community* (LHS) was initially adopted by Council in June 2020 and amended in July 2021. It identifies the needs, demand, constraints and opportunities for housing throughout the Wingecarribee Shire. It identifies potential new areas for housing and existing potential within existing towns and villages. Under Planning Priority 1 (Promote infill development and increased densities in appropriate locations, and facilitate a greater mix of housing types to ensure our housing stock is reflective of the needs of our community) the value of heritage is recognised in context:

Council is committed to increasing housing choice and diversity but is equally committed to protecting and enhancing the heritage and character of our towns and villages and ensuring that new housing is consistent with the values and expectations of our community.

Although the Planning Proposal may have the effect of reducing development potential on these sites, it is in the context that preservation of heritage is important to the community and to provision of housing at the expense of heritage assets will not be tolerated by the community. Therefore, this Planning Proposal is not inconsistent with the Local Housing Strategy.

Wingecarribee 2031 Community Strategic Plan

In addition to the Local Strategic Planning Statement and Local Housing Strategy, the *Wingecarribee 2031 Community Strategic Plan* (CSP) (2017) reflects the community's aspirations and needs for the future. The community's vision for Wingecarribee 2031 is "A healthy and productive community, learning and living in harmony, proud of our heritage and nurturing our environment".

The CSP articulates the community's vision, goals and actions under the five key areas of Leadership, People, Places, Environment and Economy. The listing of new heritage items is identified as strategy 3.2.3 (Identify, protect and promote places of significant cultural heritage) under the key area of *Places* and under goal 3.2 (Wingecarribee has maintained a distinct character and separation of towns and villages). Council is committed to ensuring that places of heritage significance are identified, assessed and listed, as appropriate. This Planning Proposal is consistent with that goal and strategy.

5 - Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

There are no other relevant State and regional studies.

6 - Is the Planning Proposal consistent with applicable SEPPs?

NB: SEPPs which do not apply to Wingecarribee Shire have been excluded.

SEPP (Biodiversity and Conservation) 2021	<i>to preserve, conserve and manage NSW's natural environment & heritage</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722
<p>Assessment – Consistent</p> <p><i>Chapter 2 (Vegetation in non-rural areas) of this SEPP only applies to removal of trees on heritage sites and in heritage areas where the removal is of a minor nature and would not adversely affect the heritage significance of the heritage place (clause 2.10). The change in heritage status for the subject properties will restrict vegetation removal under this SEPP and will ensure that only tree removals that do not affect the heritage significance are undertaken under this SEPP.</i></p> <p><i>Chapters 3 and 4 (Koala Habitat Protection) of the SEPP are not relevant to the subject sites because they are individually and collectively less than 1 hectare and are disturbed sites and contain little, if any, native vegetation.</i></p> <p><i>Chapters 5, 6, 9, 10, 11 and 12 of this SEPP are not relevant as they do not apply to the Wingecarribee Shire.</i></p> <p><i>The Planning Proposal is consistent with Chapter 7 (Canal estate development) of this SEPP. There is no proposed canal estate development associated with this Planning Proposal or sites.</i></p> <p><i>The subject sites are within a drinking water catchment covered by Chapter 8 (Sydney Drinking Water Catchment) of the SEPP. Referral to WaterNSW was undertaken as required by this SEPP and Ministerial Direction 3.3 (Sydney Drinking Water Catchments). WaterNSW has no objection to the proposal and acknowledges that the amendments have few implications for water quality. Furthermore, WaterNSW states that new development on these sites will require compliance with the SEPP as part of the DA process, including neutral or beneficial effect on water quality and adherence to WaterNSW's current recommended practices and standards, as well as concurrence from WaterNSW. The Planning Proposal is consistent with Chapter 8 of the SEPP.</i></p>	
SEPP (Building Sustainability Index: BASIX) 2004	<i>to ensure consistency in the implementation of the BASIX scheme throughout the State</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2004-0396
<p>Assessment – Consistent</p> <p><i>The provisions of this SEPP would apply at any subsequent Development Application stage.</i></p>	

SEPP (Exempt and Complying Development Codes) 2008	<i>to provide streamlined assessment processes for development that complies with specified development standards</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572
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Assessment – Consistent

The Planning Proposal does not specifically apply to any development applicable under this SEPP. However, it is acknowledged that the opportunities for exempt and complying development will be restricted on the subject properties resulting from this Planning Proposal due to their change in heritage status.

SEPP (Housing) 2021	<i>to deliver a sufficient supply of safe, diverse and affordable housing</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714
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Assessment – Consistent

This Planning Proposal does not affect the operation of this SEPP except that certain types of complying development may not be available on a heritage site under the SEPP. However, development applications may be accepted for those types of development and proposals that properly address heritage matters would be capable of approval.

SEPP (Industry and Employment) 2021	<i>to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723
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Assessment – Consistent

Only Chapter 3 (Advertising and Signage) is potentially applicable to the lands subject to this Planning Proposal although the proposal does not specifically apply to signage. However, it is acknowledged that the opportunities for signage may be restricted on the subject land under this Policy resulting from this Planning Proposal due to the change in heritage status.

SEPP No. 65—Design Quality of Residential Development	<i>to improve the design quality of residential apartment development in New South Wales</i> https://legislation.nsw.gov.au/view/html/inforce/current/epi-2002-0530
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Assessment – Consistent

The subject properties are zoned R3 Medium Density Residential where residential flat buildings are permissible with consent. However, the sites in both Bowral and Moss Vale are within areas designated by the respective DCPs where residential flat buildings are not permissible. Therefore, this SEPP would not be applicable on these sites.

SEPP (Planning Systems) 2021

to provide a strategic and inclusive planning system for the community & the environment

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724>

Assessment – Consistent

The Planning Proposal does not affect the application of this SEPP.

SEPP (Regional Precincts) 2021

relates to State significant precincts, Activation precincts and other specific precincts including the Southern Highlands Regional Shooting Complex

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727>

Assessment – Consistent

This SEPP is not applicable to this site. (The only site in the Wingecarribee Shire to which this SEPP is applicable is the Southern Highlands Regional Shooting Complex located at 430 Wattle Ridge Road, Wattle Ridge.)

SEPP (Primary Production) 2021

To support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729>

Assessment – Consistent

This SEPP is not relevant to this Planning Proposal. The Planning Proposal applies to the land in a residential zone in an existing urban area. Therefore, the Chapter 2 (Primary Production & Rural Development) of this SEPP does not apply.

SEPP (Resilience and Hazards) 2021

to manage risks and building resilience in the face of hazards

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730>

Assessment – Consistent

The provisions of Chapter 3 (Hazardous and Offensive Development) and Chapter 4 (Remediation of Land) SEPP are the only part of this SEPP applicable to Wingecarribee Shire.

The Planning Proposal applies to land within the R3 Medium Density Residential zone. Hazardous and offensive industries are prohibited in the R3 zone. Therefore Chapter 3 does not apply to this Planning Proposal.

The subject sites have been in residential usage for more than 70 years and the lands are not considered to have any significant contamination risk. The Planning Proposal does not seek to change the use or the zoning of the subject sites. Therefore, Chapter 4 of this SEPP is not likely to apply.

SEPP (Resources and Energy) 2021

to promote the sustainable use of NSW's resources and transitioning to renewable energy
<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731>

Assessment – Consistent

The Planning Proposal does not affect the application of this SEPP. However, certain types of exempt development under this SEPP may be restricted by the change in heritage status anticipated by this Planning Proposal. Exempt development on heritage sites is normally restricted activities that have a minor or negligible effect on heritage significance.

SEPP (Transport and Infrastructure) 2021

to provide well-designed and located transport and infrastructure integrated with land use
<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732>

Assessment – Consistent

Only Chapters 2 (Infrastructure) and 3 (Educational establishments and child care centres) of this SEPP potentially apply to this Planning Proposal.

Opportunities for exempt and complying development under Chapter 2 may be affected by the change in heritage status of the properties. However, given the subject properties are in private ownership, it would be unlikely that the SEPP provisions would be exercised on these sites.

The Planning Proposal does not apply to any existing educational establishments or child care facilities. Educational establishments and early education and care facilities are permissible with consent in the R3 Medium Density Residential zone, and Chapter 3 would apply to these types of land uses should development consent be sought.

7 - Is the Planning Proposal consistent with applicable s9.1 Ministerial Directions?

1- Planning Systems	<i>The Principles for Planning Systems support the broader NSW planning framework, including its processes and collaborative approaches to strategic and land use planning and decision making. They seek to achieve long-term, evidence-based, strategically led planning that is inclusive, democratic, responsive to the community and the environment, and ensures decisions are transparent and prompt.</i>
1.1 Repealed	
1.2 Implementation of Regional Plans (previously 5.10)	
<i>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</i>	
Assessment – Consistent	
Question 3 in Section B of this Planning Proposal has addressed the relevant parts of the South East & Tablelands Regional Plan.	
1.3 Development of Aboriginal Land Council land (previously 5.11)	
<i>The objective of this direction is to provide for the consideration of development delivery plans prepared under Chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.</i>	
Assessment – Consistent	
This Direction currently only applies in the Central Coast local government area.	
1.4 Approval and Referral Requirements (previously 6.1)	
<i>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i>	
Assessment – Consistent	
This Planning Proposal involves the identification of heritage items and to list and manage them in accordance with existing provisions in the Wingecarribee Local Environmental Plan 2010.	
1.5 Site Specific Provisions (previously 6.3)	
<i>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</i>	
Assessment – Consistent	
This Planning Proposal does not involve any change in zoning or any site specific provisions.	

- 1.6 Parramatta Road Corridor Urban Transformation Strategy
- 1.7 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan
- 1.8 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan
- 1.9 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation
- 1.10 Implementation of Glenfield to Macarthur Urban Renewal Corridor
- 1.11 Implementation of the Western Sydney Aerotropolis Plan
- 1.12 Implementation of Bayside West Precincts 2036 Plan
- 1.13 Implementation of Planning Principles for the Cooks Cove Precinct
- 1.14 Implementation of St Leonards and Crows Nest 2036 Plan
- 1.15 Implementation of Greater Macarthur 2040
- 1.16 Implementation of the Pymont Peninsula Place Strategy
- 1.17 North West Rail Link Corridor Strategy

None of these place-based Directions apply to Wingecarribee Shire.

**2-
Design &
Place**

The Principles for Well-designed Places establish quality design approaches for new development, public spaces and the environment. They promote the design of places that are healthy, sustainable, prosperous, and supportive of people, the community and Country.

There are currently no directions under this focus area.

**3-
Biodiversity
& Con-
servation**

The Principles for Natural Environment & Heritage recognise the fundamental importance of protecting, conserving and managing NSW's natural environment and heritage. They help balance the needs of built and natural environments, respecting both the innate and economic value of the state's biodiversity and natural assets.

3.1 Conservation Zones (previously 2.1 Environment Protection Zones)

The objective of this direction is to protect and conserve environmentally sensitive areas.

Assessment – Consistent

The sites subject of this Planning Proposal are not within an existing environmental or conservation zone and are not defined as environmentally sensitive land.

3.2 Heritage Conservation (previously 2.3)

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

Assessment – Consistent

The Planning Proposal seeks to conserve environmental heritage places that are the subject of Interim Heritage Orders and have undergone a heritage assessment in accordance with the NSW Heritage Guidelines. The Wingecarribee Local Environmental Plan 2010, which is a standard instrument LEP, contains compulsory clause 5.10 relating to heritage conservation. The new

heritage places would be subject to these provisions once they are included as a heritage item and within a heritage conservation area.

3.3 Sydney Drinking Water Catchments (previously 5.2)

The objective of this direction is to protect water quality in the Sydney drinking water catchment.

Assessment – Consistent

Most of Wingecarribee Shire, including the subject sites, is within the area designated as Sydney drinking water catchment. Referral to Water NSW has been undertaken as required by this Ministerial Direction and the SEPP (Biodiversity and Conservation) 2021. WaterNSW has responded and has no objection to the proposal and acknowledges that the amendments have few implications for water quality. Furthermore, WaterNSW states that new development on these sites will require compliance with the SEPP as part of the DA process, including neutral or beneficial effect on water quality and adherence to WaterNSW's current recommended practices and standards, as well as concurrence from WaterNSW. The Planning Proposal is consistent with this Direction.

3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs

Not applicable to Wingecarribee Shire

3.5 Recreation Vehicle Areas (previously 2.4)

The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

Assessment – Consistent

The Planning Proposal does not seek to enable development for a recreation vehicle area.

4- Resilience & Hazards

The Principles for resilience & Hazards aim to improve responses to natural and development-related hazards, and climate change. They support methods to consider and reduce risk. The principles promote healthy, resilient and adaptive communities, urban areas and natural environments.

4.1 Flooding (previously 4.3)

The objectives of this direction are to:

- (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

Assessment – Consistent

The lands subject to the Planning Proposal are not within a flood planning area or probable maximum flood as identified in the Bowral Floodplain Risk Management Study 2009, the Wingecarribee River Flood Study 2014 or the Whytes Creek Floodplain Risk Management Study 2020 (Moss Vale) adopted by Council and current at this time.

4.2 Coastal Management (previously 2.2)
<i>Not applicable to Wingecarribee Shire</i>
4.3 Planning for Bushfire Protection (previously 4.4)
<i>The objectives of this direction are to: (a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) encourage sound management of bush fire prone areas.</i>
Assessment – Consistent The lands subject to the Planning Proposal are not located in a mapped fire prone area. However, the Myrtle Street properties are around 30 metres from the edge of the mapped bush fire prone land to the north. Consequently, the Rural Fire Service have been included in the Agency referrals for this Planning Proposal and should this Planning Proposal proceed to public exhibition this Assessment will be updated accordingly and the Rural Fire Service’s response attached.
4.4 Remediation of Contaminated Land (previously 2.6)
<i>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. (NB: In order to meet the requirements of this Direction every site-specific Planning Proposal must include a Preliminary Site Inspection report.)</i>
Assessment – Consistent The Planning Proposal applies to lands that have been in residential use for at least 70 years and are not likely to be contaminated.
4.5 Acid Sulphate Soils
<i>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.</i>
Assessment – Consistent There are currently no mapped acid sulphate soils within Wingecarribee Shire.
4.6 Mine Subsidence & Unstable Land
<i>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</i>
Assessment – Consistent The lands subject to the Planning Proposal are within Bowral and Moss Vale and are not located within a mapped Mine Subsidence Area and have not been identified as unstable in any other way.

5- Transport & Infrastructure	<i>The Principles for Transport & Infrastructure support innovative, integrated and coordinated transport and infrastructure, that is well-designed, accessible and enduring. They seek to optimise public benefit and value by planning for modern transport and infrastructure in the right location and at the right time.</i>
5.1 Integrating Land Use and Transport (previously 3.4)	
<p><i>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</i></p> <p><i>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</i> <i>(b) increasing the choice of available transport and reducing dependence on cars, and</i> <i>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i> <i>(d) supporting the efficient and viable operation of public transport services, and</i> <i>(e) providing for the efficient movement of freight.</i></p>	
<p>Assessment – Consistent</p> <p>The Planning Proposal seeks to provide heritage protection for two discrete areas within the towns of Bowral and Moss Vale. This action would not create additional infrastructure demands, as the subject sites are already developed for residential uses.</p>	
5.2 Reserving Land for Public Purposes (previously 6.2)	
<p><i>The objectives of this direction are to:</i></p> <p><i>(a) facilitate the provision of public services and facilities by reserving land for public purposes, and</i> <i>(b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</i></p>	
<p>Assessment – Consistent</p> <p>The Planning Proposal does not apply to any land or zonings identified for public purposes.</p>	
5.3 Development Near Regulated Airports and Defence Airfields (previously 3.5)	
<p><i>The objectives of this direction are to:</i></p> <p><i>(a) ensure the effective and safe operation of regulated airports and defence airfields;</i> <i>(b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and</i> <i>(c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</i></p>	
<p>Assessment – Consistent</p> <p>The lands subject to the Planning Proposal are not located near a regulated airport or defence airfield.</p>	
5.4 Shooting Ranges (previously 3.6)	
<p><i>The objectives are to:</i></p> <p><i>(a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</i> <i>(b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent</i></p>	

land,
(c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.

Assessment – Consistent

The lands subject to the Planning Proposal are not in the vicinity of any existing shooting ranges.

**6-
Housing**

The Principles for Housing foster long-term, strategic-led and evidence-based approaches to guide a strong supply of well-located homes. They support the delivery of safe, diverse, affordable and quality designed housing that meets the needs of Aboriginal and local communities.

6.1 Residential Zones (previously 3.1)

The objectives of this direction are to:

- (a) encourage a variety and choice of housing types to provide for existing and future housing needs,*
- (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- (c) minimise the impact of residential development on the environment and resource lands.*

Assessment – Consistent

This Direction applies as the Planning Proposal affects existing R3 Medium Density Residential zoned land. The Planning Proposal does not seek to alter the boundaries of the existing zone or the existing minimum lot size. However, it seeks to include the subject properties as a new heritage item and within an existing conservation area, in order to protect the local heritage of the Shire. This will have the effect of confining future development on these properties to that which is respectful of the heritage values of the sites/area.

6.2 Caravan Parks and Manufactured Home Estates (previously 3.2)

The objectives of this direction are to:

- (a) provide for a variety of housing types, and*
- (b) provide opportunities for caravan parks and manufactured home estates.*

Assessment – Consistent

The Planning Proposal does not identify land suitable for caravan parks nor alter existing opportunities for caravan park development.

**7-
Resilient
Economies**

The Principles for Resilient Economies support diverse, inclusive and productive employment opportunities across the state to make NSW more economically competitive. They promote the supply of strategic employment lands, innovative industries and centres as a focus for activity and accessibility.

7.1 Business and Industrial Zones (previously 1.1)

The objectives of this direction are to:

- (a) encourage employment growth in suitable locations,*
- (b) protect employment land in business and industrial zones, and*
- (c) support the viability of identified centres.*

Assessment – Consistent
The Planning Proposal applies to existing R3 Medium Density Residential zoned land and does not affect employment lands.
7.2 Reduction in non-hosted short-term rental accommodation period
<i>Not applicable to Wingecarribee Shire</i>
7.3 Commercial and Retail Development along the Pacific Highway, North Coast
<i>Not applicable to Wingecarribee Shire</i>

8- Resources & Energy	<i>The Principles for Resources & Energy promote the sustainable development of resources in strategic areas and a transition to low carbon industries and energy. They support positive environmental outcomes and work towards the net zero emissions target and continued energy security, while also promoting diversified activity in regional economies.</i>
8.1 Mining, Petroleum Production & Extractive Industries	
<i>The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</i>	
Assessment – Consistent	
The Planning Proposal does not seek to alter any existing opportunities for mining, petroleum production or extractive industries.	

9- Primary Production	<i>The Principles for Primary Production support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.</i>
9.1 Rural Zones (previously 1.2)	
<i>The objective of this direction is to protect the agricultural production value of rural land.</i>	
Assessment – Consistent	
The Planning Proposal does not apply to any existing rural lands and does not seek to rezone land to a rural zone.	
9.2 Rural Lands (previously 1.5)	
<p><i>The objectives of this direction are to:</i></p> <ul style="list-style-type: none"> <i>(a) protect the agricultural production value of rural land,</i> <i>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i> <i>(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,</i> <i>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</i> <i>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on</i> 	

rural land,

(f) support the delivery of the actions outlined in the NSW Right to Farm Policy.

Assessment – Consistent

The Planning Proposal applies to R3 Medium Density Residential zoned, proposing no change of zoning and, therefore, does not affect rural lands.

9.3 Oyster Aquaculture (previously 1.4)

The objectives of this direction are to:

(a) ensure that ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and

(b) protect ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.

Assessment – Consistent

This Direction does not apply to Wingecarribee Shire.

9.4 Farmland of State & Regional Significance on the NSW Far North Coast

Not applicable to Wingecarribee Shire

Section C – Environmental, Social & Economic Impacts

8 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the Proposal?

The Planning Proposal applies to existing medium density residential zoned land which has previously been developed for residential purposes. No critical habitat or endangered vegetation is known to be identified on the subject lands, and no threatened species, populations or ecological communities have been identified or are likely to exist on the subject lands. The Planning Proposal seeks to protect and retain existing vegetation on the land.

9 - Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

There are not likely to be any environmental effects as a result of the Planning Proposal. In fact, the heritage listing of the site in Moss Vale and the extension of the Bowral Conservation Area to include additional properties will constrain development potential, thereby reducing negative environmental impacts, including loss of trees and potential loss of habitat within the established gardens on the subject properties.

10 - Has the planning proposal adequately addressed any social and economic effects?

There are possible social and economic effects on the existing property owners as any future development of the sites will be restricted due to the heritage status of the properties. However, there are social benefits and potential economic benefits for the surrounding property owners resulting from the protection of these sites and their gardens.

Some individual economic and social impact is considered to be reasonable in the context of protecting sites of local heritage significance from inappropriate development.

Section D – Infrastructure (Local, State & Commonwealth)

11- Is there adequate public infrastructure for the Planning Proposal?

Yes. The Planning Proposal will not result in any additional burden on existing public infrastructure. In fact, the reduction in development potential could help to alleviate future infrastructure burden.



Section E – State and Commonwealth Interests

12 - What are the views of state and federal authorities and government agencies consulted in order to inform the Gateway determination?

As mentioned in the Site Location, Description & Background section of this Planning Proposal, three of the four sites are subject to interim heritage orders (IHOs) that expire on 19 November 2022. In addition, there is a current Land and Environment Court appeal against the issuing of one of the IHOs over one lot of the site at 26 Elizabeth Street, Moss Vale. Due to the time constraints imposed by the IHOs and the concerns about the Court appeal, Council has undertaken agency referrals to Heritage NSW, the Rural Fire Service and WaterNSW concurrently to submitting the Planning Proposal for a Gateway Determination. Following the receipt of the Gateway Determination and before the commencement of public exhibition, this Planning Proposal will be updated relative to the agency responses and copies of their submissions attached.

Part 4 - Maps

The following maps will require amendment:

1. **Heritage Map – Sheet HER_007C** (current reference 8350_COM_HER_007C_020_20170327) which covers the area of Bowral. **Figure 8** indicates the manner in which this map is proposed to be amended.

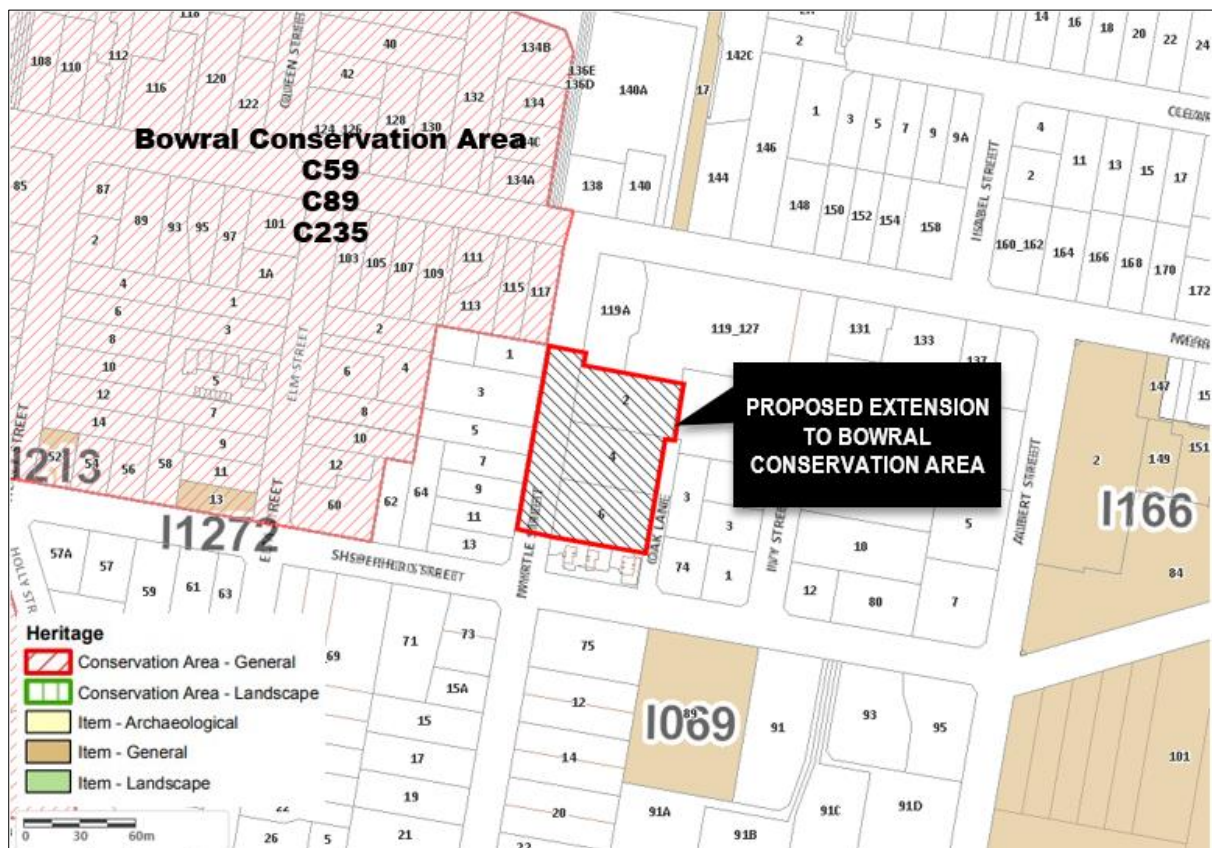


Figure 8: Indicative amendment to the WLEP 2010 Heritage Map (Sheet HER_007C) for 2, 4 and 6 Myrtle Street, Bowral

2. **Heritage Map – Sheet HER_007E** (current reference 8350_COM_HER_007E_020_20170123) which covers the area of Moss Vale. **Figure 9** indicates the manner in which this map is proposed to be amended.

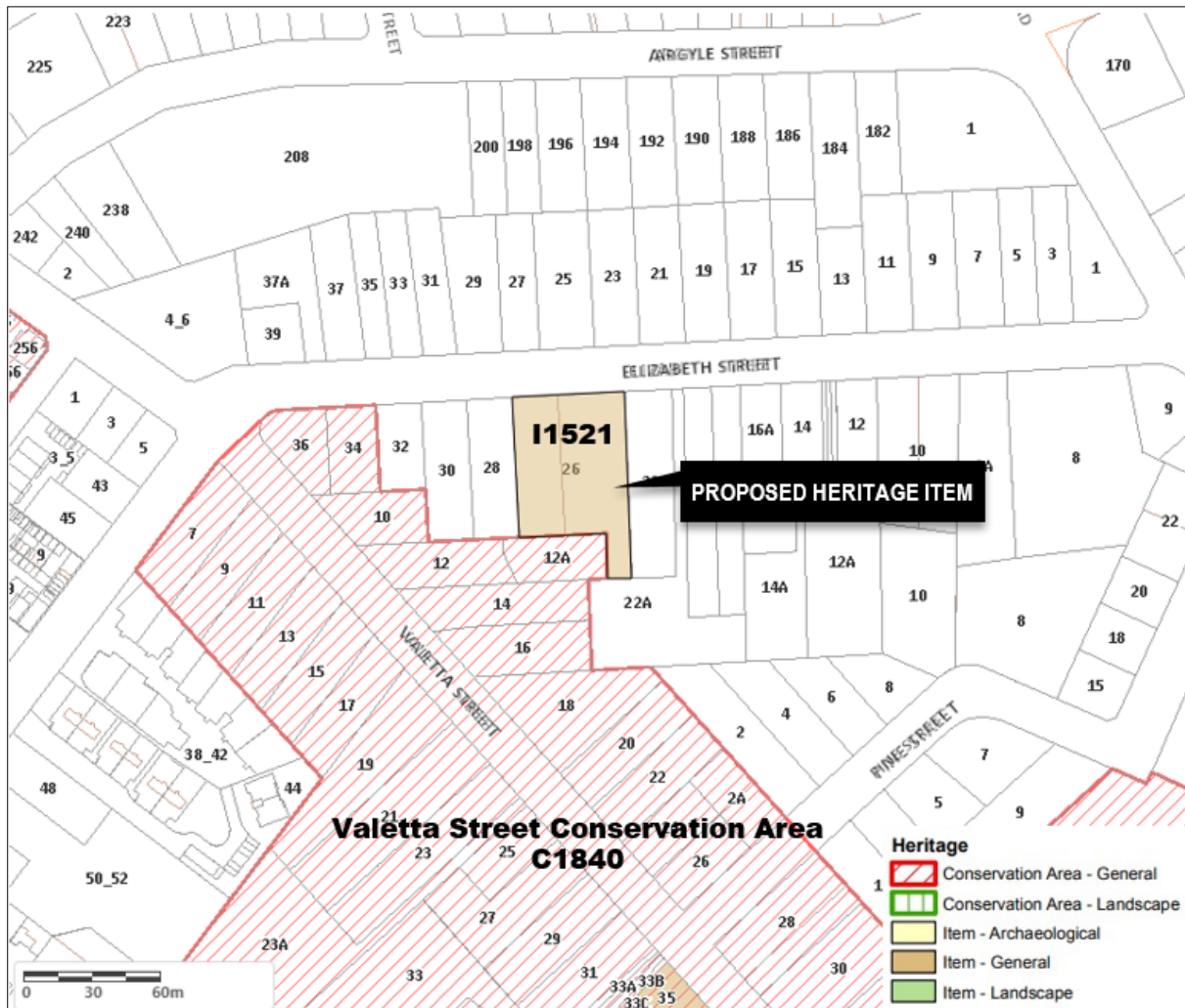


Figure 9: Indicative amendment to the WLEP 2010 Heritage Map (Sheet HER_007E) for 26 Elizabeth Street, Moss Vale

Part 5 - Community Consultation

Council has undertaken Agency referrals with WaterNSW, Heritage NSW and the Rural Fire Service.

WaterNSW was notified on 15 April 2022 and their response dated 10 May 2022 is included as **ATTACHMENT 6**. In summary, WaterNSW has no objection to the proposal and makes the following comments:

- The amendments have few implications for water quality. However, the minimisation of opportunities for complying development is acknowledged and future development will be subject to full development assessment with the need to comply with State Environmental Planning Policy (Biodiversity and Conservation) 2021 in relation to water quality.
- The Proposal has given due consideration to section 9.1 Ministerial Direction 3.3 relating to the Sydney Drinking Water Catchment. WaterNSW Concurs with Council's conclusion that heritage provisions will likely have a subduing effect on development potential of the sites, thereby protecting water quality.

Heritage NSW was notified on 15 April 2022 and their response dated 27 May 2022 is included as **ATTACHMENT 7**. In summary, Heritage NSW:

- acknowledges Council's heritage assessments have been undertaken in accordance with the Heritage Council of NSW's criteria for listing at a local level,
- encourages the identification and listing of the new heritage item.

The NSW Rural Fire Service (RFS) was notified on 15 April 2022 and a response has not been received to date (7 June 2022). None of the sites are mapped as bush fire prone land but the Myrtle Street properties are proximate to mapped bush fire prone land.

The Gateway Determination has required public exhibition for a period of 20 working days. The following public exhibition dates have been set which comply with the Gateway Determination:

Wednesday 8 June to Friday 8 July 2022, inclusive (22 working days)

The principal place of public exhibition will be Council's consultation website *Your Say Wingecarribee* www.yoursaywingecarribee.com.au with a hard copy of all documentation available at the Customer Service Counter at the Civic Centre, 68 Elizabeth Street, Moss Vale, NSW 2577 and at the Bowral and Moss Vale Libraries.

Part 6 - Project Timeline

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	May 2022
Agency Consultation	April/May 2022
Public Exhibition (commencement and completion)	8 June- 8 July 2022 (22 working days)
Consideration of submissions	July 2022
Post exhibition Report to Panel & Council	3/17 August 2022
Submission to the Department for finalisation	Late August 2022
Gazettal of LEP amendment	October 2022

Delegation

The Planning Proposal has been determined NOT to be delegated to Council which means that the Department of Planning and Environment will retain the plan making function under s.3.36 of the *Environmental Planning & Assessment Act 1979* to independently finalise the proposal taking into account all views.

END OF PLANNING PROPOSAL