

ATTACHMENTS TO REPORT

Item 5.3

Planning Proposal and Heritage Assessment of 2 & 4 Myrtle Street, Bowral, and 'Karingal', 26 Elizabeth Street, Moss Vale—Interim Heritage Orders Nos. 12 & 13

Attachment 1

Report and Minutes of 8 December 2021 Council Meeting regarding Interim Heritage Order No. 12 for 2 & 4 Myrtle Street, Bowral, and Interim Heritage Order No. 13 for 26 Elizabeth Street, Moss Vale.

Attachment 2

Heritage inventory sheet for 'Karingal' Interwar bungalow and garden including brick and trachyte fence, 26 Elizabeth Street, Moss Vale.

Attachment 3

Biographical Notes and Gazetteer of Work on Alf Stephens & Sons 1886-1965.

Attachment 4

Planning Proposal for 2, 4 & 6 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale (heritage)

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

Version 1 for Council Determination
February 2022

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Attachments which form part of this Planning Proposal

1	Interim Heritage Order No. 12 published on 19 November 2021
2	Interim Heritage Order No. 13 published on 19 November 2021
3	Report to Council and Minutes 9 December 2021 re Interim Heritage Orders
4	Report to Council and Minutes 16 March 2022
5	Delegation Request Form

Please note that these attachments are absent from the Planning Proposal version attached to the Business Paper for the Local Planning Panel meeting of 2 March 2022 and the Council Meeting of 16 March 2022.

Address of the Land

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

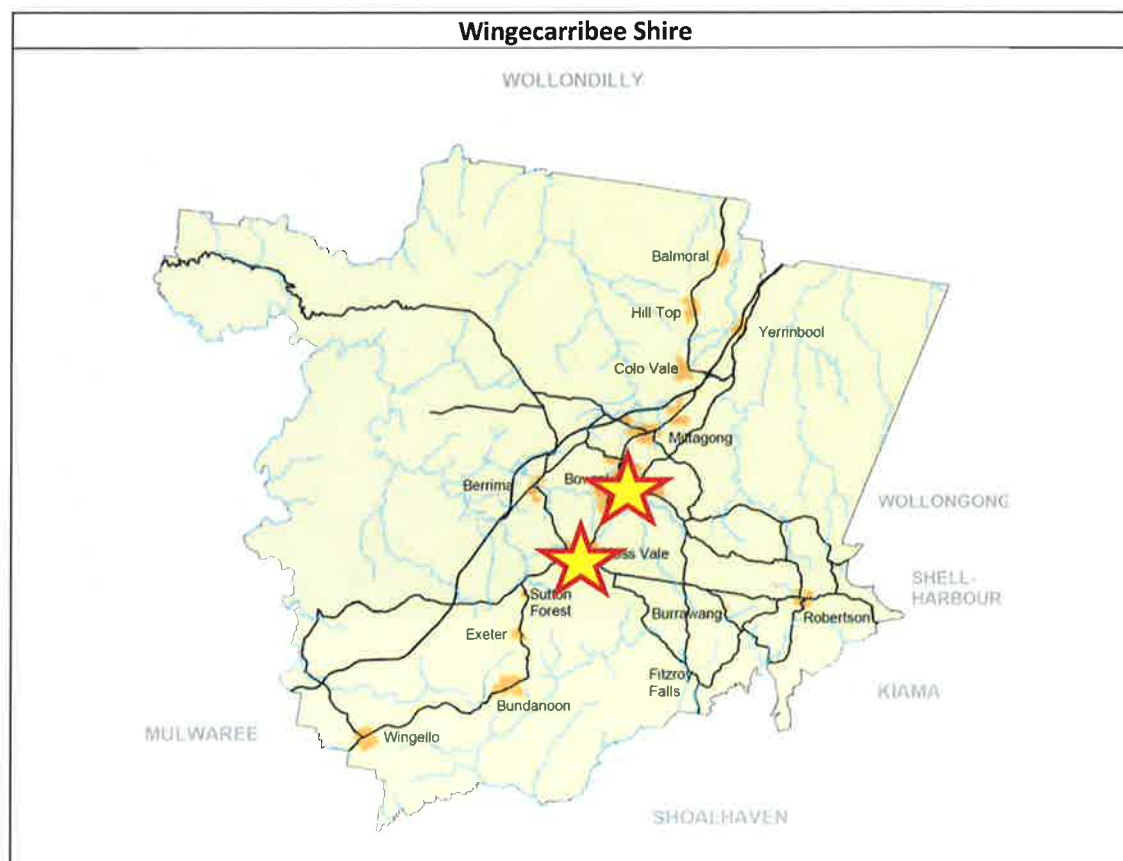


Figure 1: Location Map (Shire wide)

Site Location & Description

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.

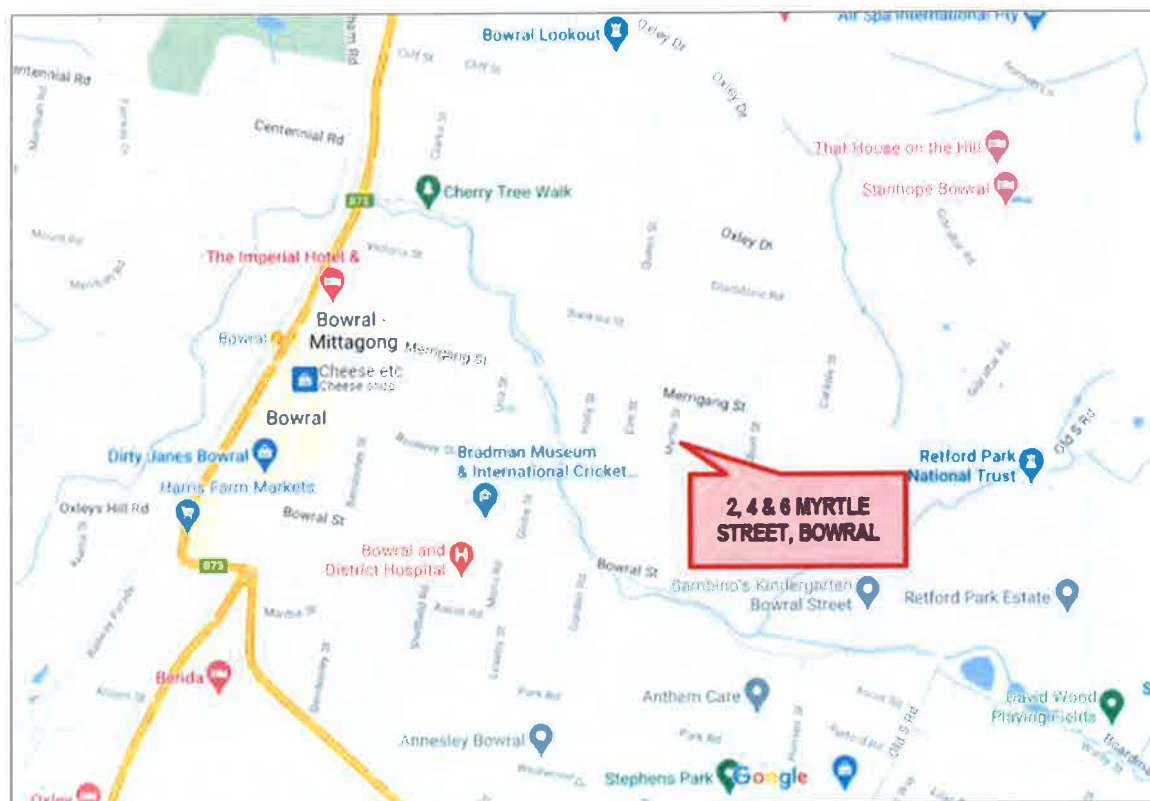


Figure 2: The location of 2, 4 & 6 Myrtle Street in the context of Bowral (source: Google Maps)

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.

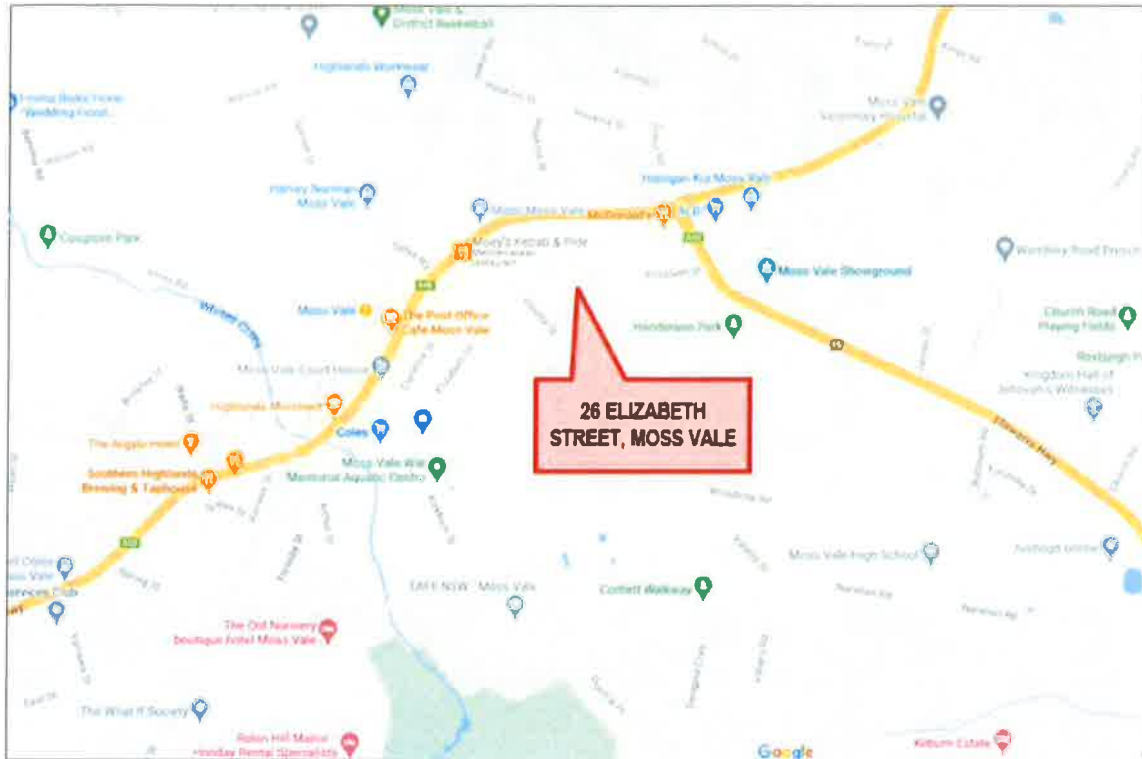


Figure 5: The location of 26 Elizabeth Street in the context of Moss Vale (source: Google Maps)



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

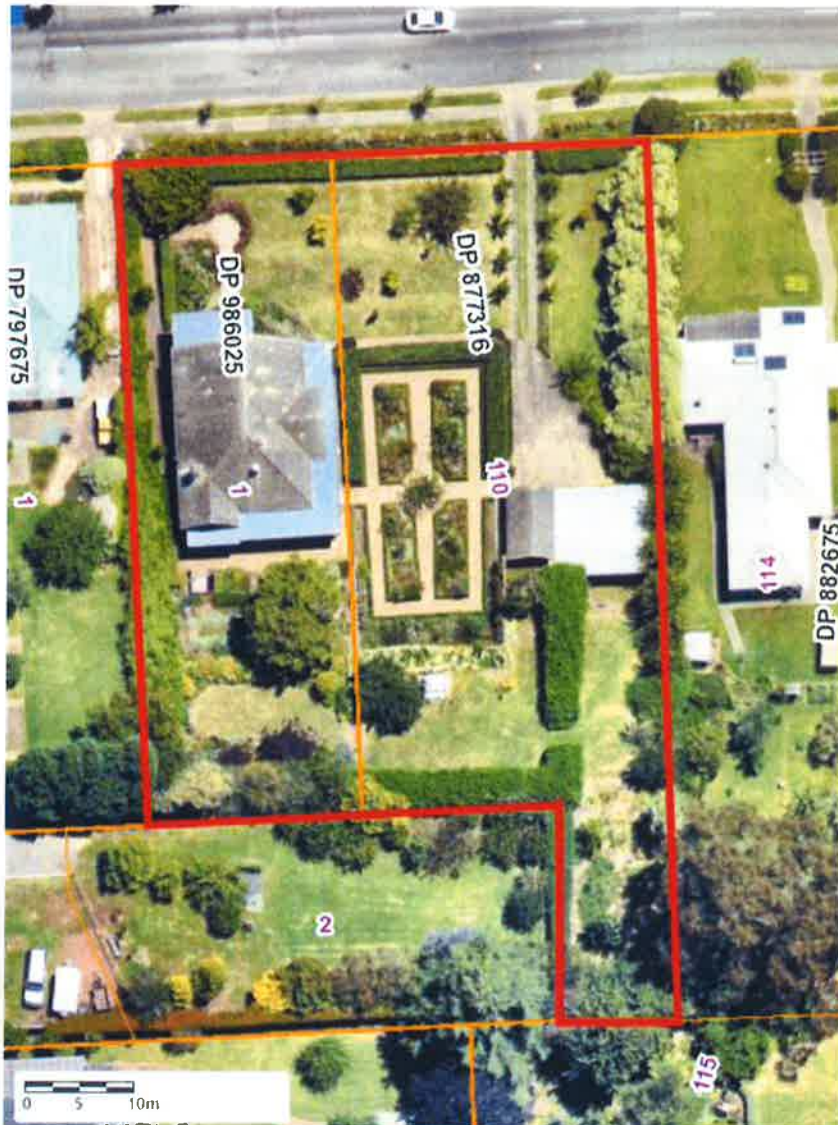


Figure 7: Aerial photo of 'Karingal' with cadastral boundaries (Source: Nearmap, December 2021)

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.

Part 1: Objectives or Intended Outcomes

The intended outcomes of this Planning Proposal are to include 2, 4 and 6 Myrtle Street, Bowral, within the existing Bowral Conservation Area and include 26 Elizabeth Street, Moss Vale, as a new heritage item to be called *“Karingal’ Interwar bungalow and garden including brick and trachyte fence”*.

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 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	11521

- 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 Objectives, Outcomes & Process

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any 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 an item of heritage and to include a property within a Heritage Conservation Area.

Section B – Relationship to the 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 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 Proposal 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 a council’s local strategy or other local strategic plan?

Wingecarribee 2031 Community Strategic Plan

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.

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.
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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.

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

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

SEPP (Building Sustainability Index : BASIX) 2004
(1) Regulations under the Act have established a scheme to encourage sustainable residential development (<i>the BASIX scheme</i>) under which: (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled. (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State. (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.
Assessment – Consistent The provisions of this SEPP would apply at any subsequent Development Application stage.
SEPP (Educational Establishments & Child Care Facilities) 2017
The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by— (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and (d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and (f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and (g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and (h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.



<p>Assessment – Consistent</p> <p>The Planning Proposal does not apply to any existing educational establishments or child care facilities. <i>Educational establishments</i> and <i>early education and care facilities</i> are permissible with consent in the R3 Medium Density Residential zone, and the SEPP would apply to these types of land uses should development consent be sought.</p>
<p>SEPP (Exempt & Complying Development Codes) 2008</p> <p>This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by—</p> <ul style="list-style-type: none">(a) providing exempt and complying development codes that have State-wide application, and(b) identifying, in the exempt development codes, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and(c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Act, and(d) enabling the progressive extension of the types of development in this Policy, and(e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.
<p>Assessment – Consistent</p> <p>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.</p>
<p>SEPP (Housing) 2021</p> <p>The principles of this Policy are as follows—</p> <ul style="list-style-type: none">(a) enabling the development of diverse housing types, including purpose-built rental housing,(b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,(c) ensuring new housing development provides residents with a reasonable level of amenity,(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,(e) minimising adverse climate and environmental impacts of new housing development,(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,(g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,(h) mitigating the loss of existing affordable rental housing.
<p>Assessment – Consistent</p> <p>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.</p> <p>Chapter 3, Part 8 (Manufactured home estates) does not apply to land within a water catchment (as prescribed by Schedule 2). The subject sites are within the Sydney Drinking Water Catchment Area and therefore that part of the SEPP does not apply.</p>



SEPP (Infrastructure) 2007

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
- (b) providing greater flexibility in the location of infrastructure and service facilities, and
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (g) providing opportunities for infrastructure to demonstrate good design outcomes.

Assessment – Consistent

The Planning Proposal does not specifically apply to any development applicable under this SEPP. However, it is acknowledged that should any provisions of the SEPP be of future relevance to the subject land, the applicability of the provisions may change as a result of the Planning Proposal (e.g. heritage restrictions and considerations will apply).

SEPP (Koala Habitat Protection) 2020 & 2021

The SEPP (Koala Habitat Protection) 2020 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

The Policy applies to land within Wingecarribee Shire zoned RU1 Primary Production, RU2 Rural Landscape and RU3 Forestry.

The SEPP (Koala Habitat Protection) 2021 aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

'Koala SEPP 2021' provides for three different development assessment processes:

1. Development on land to which the Policy and an approved koala plan of management applies (clause 10);
2. Development on land to which the Policy applies, has an area of at least 1 hectare and to which no approved koala plan of management applies (clause 11);
3. Other land to which no approved koala plan of management applies and where the council is satisfied that the land is not core koala habitat (clause 12).

Koala Plans of Management approved under any previous Koala SEPP are taken to be an approved Koala Plan of Management under the Koala SEPP 2021.



<p>Assessment – Consistent</p> <p>The sites that are the subject of this Planning Proposal are disturbed sites and contain little, if any, native vegetation. Furthermore, the sites are less than 1 hectare, both individually and collectively. Therefore, the SEPP is not relevant to the subject sites.</p>
<p>SEPP (Mining, Petroleum Production & Extractive Industries) 2007</p> <p>The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries -</p> <ul style="list-style-type: none">(a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and(b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and(b1) to promote the development of significant mineral resources, and(c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and(d) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development -<ul style="list-style-type: none">(i) to recognise the importance of agricultural resources, and(ii) to ensure protection of strategic agricultural land and water resources, and(iii) to ensure a balanced use of land by potentially competing industries, and(iv) to provide for the sustainable growth of mining, petroleum and agricultural industries.
<p>Assessment – Consistent</p> <p>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.</p>
<p>SEPP No 33 - Hazardous & Offensive Development</p> <p>This Policy aims—</p> <ul style="list-style-type: none">(a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and(b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and(c) to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and(d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and(e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and(f) to require the advertising of applications to carry out any such development.
<p>Assessment – Consistent</p> <p>The Planning Proposal applies to land within the R3 Medium Density Residential zone. Hazardous and offensive industries are prohibited in the R3 zone.</p>



SEPP No 50 – Canal Estate Development
This Policy aims to prohibit canal estate development as described in this Policy in order to ensure that the environment is not adversely affected by the creation of new developments of this kind.
Assessment – Consistent The SEPP does not apply to land within a water catchment (as prescribed by Schedule 2 of the SEPP). The subject land is within the Sydney Drinking Water Catchment Area and therefore the SEPP does not apply.
SEPP No 55 – Remediation of Land
The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land. In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment— <ul style="list-style-type: none"> (a) by specifying when consent is required, and when it is not required, for a remediation work, and (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and (c) by requiring that a remediation work meet certain standards and notification requirements.
Assessment – Consistent 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.
SEPP No 64 – Advertising & Signage
This Policy aims - <ul style="list-style-type: none"> (a) to ensure that signage (including advertising): <ul style="list-style-type: none"> (i) is compatible with the desired amenity and visual character of an area, and (ii) provides effective communication in suitable locations, and (iii) is of high quality design and finish, and (b) to regulate signage (but not content) under Part 4 of the Act, and (c) to provide time-limited consents for the display of certain advertisements, and (d) to regulate the display of advertisements in transport corridors, and (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.
Assessment – Consistent The Planning 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 Apartment Development

This Policy aims to improve the design quality of residential apartment development in the State. The Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design. Improving the design quality of residential apartment development aims:

- (a) to ensure that it contributes to the sustainable development of New South Wales:
 - (i) by providing sustainable housing in social and environmental terms, and
 - (ii) by being a long-term asset to its neighbourhood, and
 - (iii) by achieving the urban planning policies for its regional and local contexts, and
- (b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and
- (c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and
- (d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and
- (e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and
- (f) to contribute to the provision of a variety of dwelling types to meet population growth, and
- (g) to support housing affordability, and
- (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.

The Policy also aims to provide:

- (a) consistency of policy and mechanisms across the State, and
- (b) a framework for local and regional planning to achieve identified outcomes for specific places.

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(Primary Production & Rural Development) 2019

The aims of this Policy are as follows—

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.



<p>Assessment – Consistent The Planning Proposal applies to the land in a residential zone in an existing urban area. Therefore, the SEPP does not specifically apply to this Planning Proposal.</p>
<p>SEPP (State & Regional Development) 2011</p> <p>The aims of this Policy are as follows—</p> <ul style="list-style-type: none"> (a) to identify development that is State significant development, (b) to identify development that is State significant infrastructure and critical State significant infrastructure, (c) to identify development that is regionally significant development.
<p>Assessment – Consistent The Planning Proposal does not affect the application of this SEPP.</p>
<p>SEPP (Sydney Drinking Water Catchments) 2011</p> <p>The aims of this Policy are -</p> <ul style="list-style-type: none"> (a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and (b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and (c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.
<p>Assessment – Consistent The subject sites are within a drinking water catchment covered by the Policy. Should a Gateway Determination be received, referral to WaterNSW would occur as required under this Policy and Ministerial Direction 5.2 (Sydney Drinking Water Catchments). Should the Planning Proposal proceed to public exhibition, the WaterNSW response would be included and this Assessment updated accordingly.</p>
<p>SEPP (Urban Renewal) 2010</p> <p>The aims of this Policy are -</p> <ul style="list-style-type: none"> (a) to establish the process for assessing and identifying sites as urban renewal precincts, (b) to facilitate the orderly and economic development and redevelopment of sites in and around urban renewal precincts, (c) to facilitate delivery of the objectives of any applicable government State, regional or metropolitan strategies connected with the renewal of urban areas that are accessible by public transport.
<p>Assessment – Consistent The subject land is not within a potential urban renewal precinct identified by the SEPP, therefore the SEPP does not apply to the subject land and the Planning Proposal.</p>
<p>SEPP (Vegetation in Non-Rural Areas) 2017</p> <p>The aims of this Policy are -</p> <ul style="list-style-type: none"> (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
<p>Assessment – Consistent This Policy 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 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.</p>

6. Is the Planning Proposal consistent with applicable Local Planning Directions (s.9.1(2) of the EP&A Act)?

Note: The following Directions will come into force on 1 March 2022.

Focus Area 1: Planning Systems
1.1 Implementation of the Minister's Planning Principles
This Direction applies to ensure that the Minister's Planning Principles are given regard in the assessment of all planning proposals to support improved outcomes.
Assessment – Consistent The identification, conservation and management of heritage is embodied in the Minister's Focus Area No. 3: Biodiversity and conservation. Planning Principle No. 3.13 states: <i>3.13 Heritage protection, conservation and management strategies should be included in strategic and land use planning to avoid or minimise any negative heritage impacts from development, as well as provide innovative opportunities to enhance and celebrate NSW's rich heritage.</i> Identification of places of heritage significance and the subsequent listing of these places provides greater certainty in the planning and development of these sites and surrounding areas. This Planning Proposal seeks to list places that have been assessed as being of heritage significance.
1.2 Implementation of Regional Plans
The objective of this Direction is to give legal effect to vision, land use strategy, goals, directions and actions contained in Regional Plans.
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
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.
Assessment – Consistent This Direction currently only applies in the Central Coast local government area.
1.4 Approval and Referral Requirements
The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.
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
The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.
Assessment – Consistent This Planning Proposal does not involve any change in zoning or any site specific provisions.



Focus Area 1: Planning Systems – Place-based

- 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 Plan
- 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
- 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 Pyrmont Peninsula Place Strategy
- 1.17 North West Rail Link Corridor Strategy

Assessment – Consistent

The above Directions do not apply in Wingecarribee Shire.

Focus Area 2: Design and Place

There are no Directions under this Focus Area

Focus Area 3: Biodiversity and Conservation

3.1 Conservation 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 environmentally sensitive land.

3.2 Heritage Conservation

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

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

Assessment – Consistent

Although the Planning Proposal applies to land within the Sydney Drinking Water Catchment, it seeks to maintain the existing zoning and land use of the subject land and create a new heritage overlay which will likely have a subduing effect on development potential, thereby helping to protect water quality. Should a Gateway Determination be issued, it is expected that it will require referral of the Planning Proposal to WaterNSW.



3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs
The objective of this direction is to ensure that a balanced and consistent approach is taken when applying conservation zones and overlays to land on the NSW Far North Coast.
Assessment – Consistent This Directions does not apply in Wingecarribee Shire.
3.5 Recreation Vehicle Areas
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.
Focus Area 4: Resilience and Hazards
4.1 Flooding
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
The objective of this direction is to protect and manage coastal areas of NSW.
Assessment – Consistent This Direction does not apply to Wingecarribee Shire.
4.3 Planning for Bushfire Protection
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.
Assessment – Consistent The lands subject to the Planning Proposal are not located in a mapped fire prone area.
4.4 Remediation of Contaminated Land
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.
Assessment – Consistent The Planning Proposal does not apply to the land that is or is likely to be contaminated as it has been in residential use for at least 70 years.
4.6 Mine Subsidence and Unstable Land
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.
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.



<p>Focus Area 5: Transport and Infrastructure</p>
<p>5.1 Integrating Land Use and Transport</p>
<p>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:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.
<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>
<p>5.2 Reserving Land for Public Purposes</p>
<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) facilitate the provision of public services and facilities by reserving land for public purposes, and (b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.
<p>Assessment – Consistent</p> <p>The Planning Proposal does not apply to any land or zonings identified for public purposes.</p>
<p>5.3 Development Near Regulated Airports and Defence Airfields</p>
<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) ensure the effective and safe operation of regulated airports and defence airfields; (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 (c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.
<p>Assessment – Consistent</p> <p>The lands subject to the Planning Proposal are not located near a regulated airport or defence airfield.</p>
<p>5.4 Shooting Ranges</p>
<p>The objectives are to:</p> <ul style="list-style-type: none"> (a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.
<p>Assessment – Consistent</p> <p>The lands subject to the Planning Proposal are not in the vicinity of any existing shooting ranges.</p>



Focus Area 6: Housing
6.1 Residential Zones
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
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.
Focus Area 7: Industry and Employment
7.1 Business and Industrial Zones
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
The objectives of this direction are to: (a) mitigate significant impacts of short-term rental accommodation where non-hosted short-term rental accommodation period are to be reduced, and (b) ensure the impacts of short-term rental accommodation and views of the community are considered.
Assessment – Consistent This Direction applies only to Byron Shire Council.



7.3 Commercial and Retail Development along the Pacific Highway, North Coast

The objectives for managing commercial and retail development along the Pacific Highway are to:

- (a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route,
- (b) prevent inappropriate development fronting the highway,
- (c) protect public expenditure invested in the Pacific Highway,
- (d) protect and improve highway safety and highway efficiency,
- (e) provide for the food, vehicle service and rest needs of travellers on the highway, and
- (f) reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.

Assessment – Consistent

This Direction applies only to local government areas north of Port Stephens Shire Council.

Focus Area 8: Resources and Energy

8.1 Mining, Petroleum Production and Extractive Industries

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.

Assessment – Consistent

The Planning Proposal does not seek to alter any existing opportunities for mining, petroleum production or extractive industries.

Focus Area 9: Primary Production

9.1 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

Assessment – Consistent

The Planning Proposal does not apply to any existing rural lands and does not seek to rezone land to a rural zone.

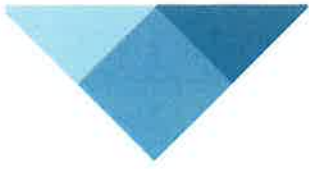
9.2 Rural Lands

The objectives of this direction are to:

- (a) protect the agricultural production value of rural land,
- (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,
- (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,
- (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,
- (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on 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
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 and Regional Significance on the NSW Far North Coast
The objectives of this direction are to: (a) ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.
Assessment – Consistent This Direction does not apply to Wingecarribee Shire.

Section C – Environmental, Social & Economic Impacts

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?

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 the Planning Proposal seeks to protect and retain the existing vegetation on the land.

8. Are there any other likely environmental effects as a result 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.

9. 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 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 site and their gardens.

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

Section D – State and Commonwealth Interests

10. 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.

Part 4: Mapping

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.

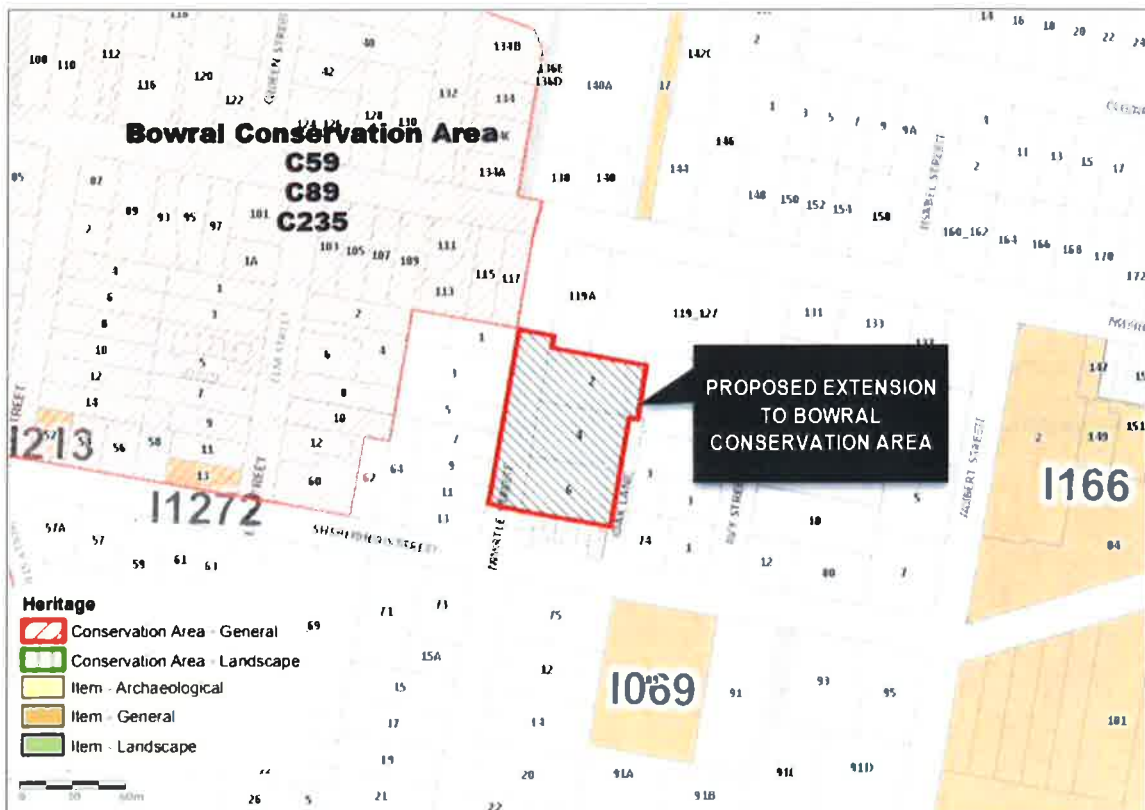


Figure 8: Indicative amendment to the WLEP 2010 Heritage Map (Sheet HER_007C) for 2, 4 and 6 Myrtle Street, Bowral



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.

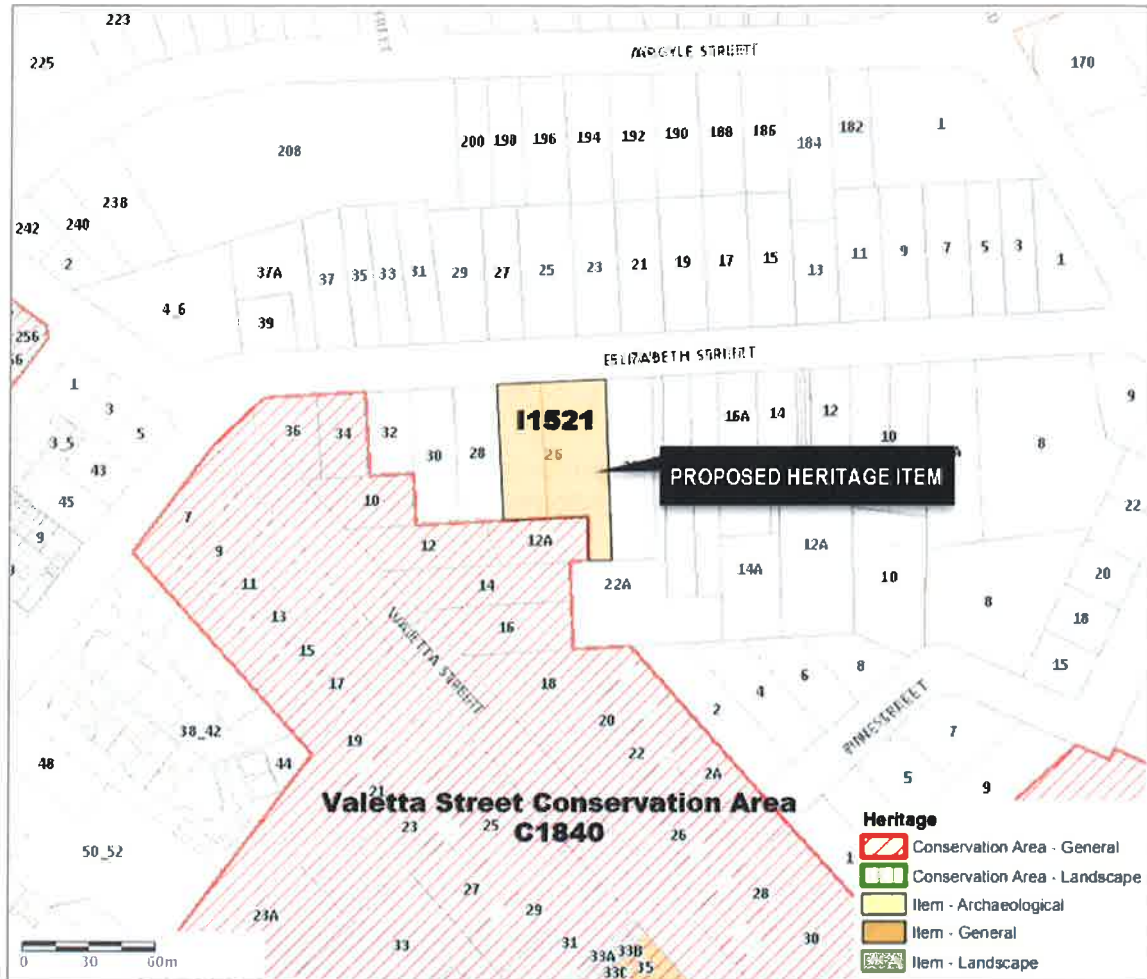


Figure 9: Indicative amendment to the WLEP 2010 Heritage Map (Sheet HER_007E) for 26 Elizabeth Street, Moss Vale



Part 5: Consultation – Agency Referrals

Council will conduct Agency referrals as required under legislation should a Gateway Determination be obtained. However, it is anticipated that referrals to Heritage NSW and Water NSW will be required.

Part 5: Consultation - Community

Council will undertake community consultation in accordance with the Gateway Determination.

The principal place of public exhibition will be Council's website, www.wsc.nsw.gov.au with copies of all documentation also available at the Customer Service Counter at the Civic Centre, 68 Elizabeth Street, Moss Vale, NSW 2577 and the Bowral and Moss Vale Libraries if and as COVID-19 restrictions permit.

Part 6: Timeline

MILESTONE	INDICATIVE /ACTUAL DATE
Gateway Determination	April/May 2022
Agency Consultation	May/June 2022
Public Exhibition	July 2022
Report to Council on exhibition of Planning Proposal.	September 2022
S.3.36 Documents to DP&E & PCO.	September 2022
Approximate completion date	November 2022

Delegation – to be completed by Council if supported

A Delegation request form accompanies this Planning Proposal.

END OF PLANNING PROPOSAL

