

SUPPLEMENTARY AGENDA

of the
Local Planning Panel
held in
Council Chambers,
Wingecarribee Shire Council Civic Centre,
68 Elizabeth Street, Moss Vale
on

Wednesday 24 July 2024

The meeting will commence at **2:00 pm**

**AGENDA OF THE LOCAL PLANNING PANEL
WEDNESDAY 24 JULY 2024**

Table Of Contents

DECLARATIONS OF INTEREST5

6 DEVELOPMENT APPLICATIONS6

 6.1 Legal Matters.....6

Our Mission, Our Vision, Our Values

OUR MISSION

To create and nurture a vibrant and diverse community growing and working in harmony with our urban, agricultural and natural environments

OUR VISION

Leadership: *'An innovative and effective organisation with strong leadership'*

People: *'A vibrant and diverse community living harmoniously, supported by innovative services and effective communication with Council'*

Places: *'Places that are safe, maintained, accessible, sympathetic to the built and natural environment, that supports the needs of the community'*

Environment: *'A community that values and protects the natural environment enhancing its health and diversity'*

Economy: *'A strong local economy that encourages and provides employment, business opportunities and tourism'*

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

Recording and Webcasting of Local Planning Panel Meetings

This meeting is being recorded and webcast via Council's website and a person's image and/or voice may be publicly broadcast. Attendance at the meeting is to be taken as consent by a person to their image and/or voice being webcast. Any part of the meeting that is held in closed session will not be webcast.

Council requests that everyone in attendance is respectful and uses appropriate language. All speakers should refrain from making any defamatory, discriminatory or offensive comments or releasing any personal information about another individual without their consent. Council accepts no liability for any damage that may result from defamatory, discriminatory or offensive comments made by persons attending meetings – all liability will rest with the individual who made the comments.

Individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting under the Council's Code of Meeting Practice.

The recording will be available for viewing on the internet for 12 months and retained as a Council record. The recording is subject to copyright.

The meeting must not be recorded by others.

Please ensure that all electronic devices including mobile phones are switched to silent.

The Council Chamber has 24 Hour Video Surveillance.

DECLARATIONS OF INTEREST

The provisions of Chapter 14 of the Local Government Act 1993 regulate the way in which nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the meeting.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

6 DEVELOPMENT APPLICATIONS

6.1 Legal Matters

Report Author: **Manager Development Assessment and Regulation**
Authoriser: **Michael McCabe**

PURPOSE

The purpose of this report is to provide an update on the status of an appeal relating to a DA that the Wingecarribee Local Planning Panel determined by way of refusal.

OFFICER'S RECOMMENDATION

THAT the Wingecarribee Local Planning Panel note this report.

REPORT

Site Description and Locality

The development comprises (3) allotments identified as Lot 2 DP 1125539 commonly known as 277 Bong Bong Street, Bowral; and Lots 2791 & 2792 DP 1107202 commonly known as 279-293 Bong Bong Street, Bowral (The Site).

The site is a corner allotment with a primary frontage to Bong Bong Street of 36 metres, a secondary frontage to Wingecarribee Street of 45 metres, a northern boundary length of 44.855 metres and a western boundary length of 36 metres. The site has a total area of 1,628m².

No. 277 Bong Bong Street comprises a single storey commercial development. The site was significantly affected by fire damage in 2021. Pedestrian access is via Bong Bong Street and the site does not contain formal vehicle access.

279-293 Bong Bong Street contains remnants of former structures (predominantly slab). Vehicle access to the site is provided via Wingecarribee Street.

Access to the site is proposed via Lot 1 DP 1125539 commonly known as 18 Station Street, Bowral. The site currently contains a two-storey commercial development.

An aerial photograph showing the subject site shaded in blue is provided below at Figure 1:



Figure 1: Aerial photograph of site and surrounds (Source: Nearmap: 5 September 2023)

The site is located within the Bowral Town Centre and surrounding development is characterised by single and two storey commercial development.

The site is zoned B2 Local Centre (now E1 Local Centre) pursuant to the provisions of the Wingecarribee Local Environmental Plan (WLEP) 2010 ("WLEP 2010").

The subject site is located in the immediate vicinity of the Commonwealth Bank, heritage item No. 1079, located at 294 Bong Bong Street, Bowral.

2. Background/Update

At the Local Planning Panel Meeting on 23 August 2023 the Wingecarribee Local Planning Panel refused DA 23/0017 which sought approval for the demolition of remaining structures and construction of a two storey retail and commercial development at 277-293 Bong Bong Street, Bowral.

The panel refused the DA for the following reasons:

- “(1) The proposed development does not comply with the objectives and controls of the Bowral Township Development Control Plan in relation to car parking. The shortfall of parking will result in adverse traffic and parking impacts on the surrounding area.*
- (2) The proposed development does not comply with the objectives and controls of the Bowral Township Development Control Plan in relation to Loading Facilities and Waste and Collection. Insufficient information has been lodged with the application to demonstrate vehicles will be able to enter and exit the site in a forward direction nor that adequate sight distances will be available for rigid vehicles.*
- (3) (a) The applicant’s written request under clause 4.6 of Wingecarribee LEP 2010 seeking to justify a contravention of clause 4.4 Floor Space Ratio has not adequately addressed and demonstrated that:*
- i. compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and*
 - ii. there are sufficient environmental planning grounds to justify the contravention.*
- (b) The proposed development will not be in the public interest because it is inconsistent with the objectives of the development standard and the objectives of the B2 Local Centre Zone under Wingecarribee LEP 2010.*
- (4) The proposed development is inconsistent with Section A7.10 of the Bowral DCP in that the proposed awning is not compatible with architectural elements of Heritage Items within the vicinity of the site.*
- (5) The proposed development is inconsistent with the aims listed under of the Wingecarribee LEP 2010 in that the proposed shortfall in carparking does not promote or support the efficient development of urban land, strengthening the viability of Wingecarribee’s business centres or support employment growth and enterprise that that is better accessed by public and private transport.*
- (6) The proposed development is inconsistent with the objectives of the B2 zone under the WLEP 2010 as result of the shortfall in parking spaces. The development is likely to reduce availability of public infrastructure such as car parking.*
- (7) The proposed development is inconsistent with Section A9.3 of the Bowral DCP in that insufficient information has been lodged with the application to ensure that any such development over Council sewerage assets will be undertaken in accordance with Council technical guidelines in the Engineering Design and Construction Specifications, as well as Council’s set of standard drawings.*
- (8) Approval of the proposal would set an undesirable precedent for developing/redeveloping sites within the Bowral Town Centre.*
- (9) The proposed development is not in the public interest.”*

A Class 1 Application was filed with the Land and Environment Court on 4 October 2023.

The Statement of Facts and Contentions were filed with the LEC and a Section 34 Conference was held on 30 January 2024. The parties could not reach an agreement and the Section 34 Conference was subsequently terminated.

On 27 May 2024, the Applicant filed a notice of motion seeking leave to amend the development application.

On 6 June 2024, the Applicant was granted leave to rely upon the amended development application.

On 3 July 2024, the amended development application was re-notified for a period of fourteen (14) days.

**AGENDA OF THE LOCAL PLANNING PANEL
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The matter will now proceed to a hearing on 7-8 August 2024 and joint expert reports will be filed with the court by 19 July 2024.

3. Conclusion

DA 23/0017 was refused by the Wingecarribee Local Planning Panel on 23 August 2023. A Class 1 Application was filed with the Land and Environment Court on 4 October 2023. The matter is proceeding to a hearing on 7-8 August 2024. This report has been prepared to provide an update on the matter to the Wingecarribee Local Planning Panel.

ATTACHMENTS

Nil