

## LATE AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 08 December 2021

## REPORT GENERAL MANAGER



## 1. GENERAL MANAGER

### L.1 Interim Heritage Orders Nos. 12 and 13 for 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale

**Report Author:** Strategic Land Use Planner (Heritage)  
**Authoriser:** Manager Strategic Land Use Planning

#### **PURPOSE**

The purpose of this report is to advise Council and the community of two interim heritage orders issued by Council that came into force on 19 November 2021.

#### **RECOMMENDATION**

##### **THAT**

1. The report be noted.
2. A report on the heritage assessments of 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale, be presented to the Local Planning Panel and Council in due course.

#### **REPORT**

On 19 November 2021, Interim Heritage Order No. 12 for 2 & 4 Myrtle Street, Bowral, and Interim Heritage Order No. 13 for 'Karingal', 26 Elizabeth Street, Moss Vale, were published in the NSW Government Gazette and came into force on that day.

Copies of the Gazette notices are **ATTACHED**.

These Interim Heritage Orders (IHOs) were recommended because of the threat to the sites by current or future potential development proposals. There is evidence that these sites have heritage values that contribute to the history and character of the towns of Bowral and Moss Vale and their retention has been championed by the community who created online petitions and garnered local newspaper coverage of their fight to protect these properties.

Under section 25 of the Heritage Act 1977, an IHO may be placed on items, places and areas that may be found, on further investigation, to be of State or local significance and that are under threat. The IHO process delegated to Councils provides a six-month protection to enable heritage investigations to be carried out. The IHO is extended to 12 months if Council, during the first six (6) months, makes a resolution to include the item in its heritage schedule.

##### **Delegations**

In 2001, the Minister delegated his powers under section 25 of the Heritage Act to certain Councils, including Wingecarribee Shire Council.

These delegations to issue Interim Heritage Orders have been further delegated to Council's Director, Communities and Place in accordance with the delegation provisions of the Local Government Act 1993. The conditions attached to the Ministerial delegations to Council are articulated in the *Local Government Heritage Guidelines* issued by Heritage NSW and have been complied with in relation to the issuing of these IHOs and will continue to be adhered to in any relevant future actions.

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Interim Heritage Order No. 12 – 2 & 4 Myrtle Street, Bowral

These houses are two in a group of three houses along the northern elevated side of Myrtle Street and were constructed contemporaneously (c. 1949/50) by prominent and prolific local builder, Alf Stephens Jnr from Alf Stephens & Sons Builders. They are solidly built mid-20th Century “Bowral houses” and their grouping provides a cohesive streetscape. **Figure 1** shows an aerial view of the houses in context. Photographs and floor plans of the house are available online on real estate websites.

The sites are zoned R3 Medium Density Residential and each site is over 1,600m<sup>2</sup> in area. In 2020, the Low Rise Housing Diversity Code contained within State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 came into force in the Shire which allows for dual occupancies, manor houses and terrace style developments to be undertaken under certain circumstances as complying development.



**Figure 1:** Aerial photo (17 August 2021) showing the housing mix in Myrtle Street and the substantial properties at nos. 2 & 4 (subject to IHO No. 12 and outlined in red) and neighbouring no. 6.

Council and neighbours received a notification in early November from a private certifier of lodgement of a complying development application for demolition of the dwelling and construction of terrace housing under the Low Rise Housing Diversity Code at 4 Myrtle Street.

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Members of the community, concerned about the demolition of the house and loss of heritage values, formed the Myrtle Street Action Group and commenced an online petition (on change.org) calling for Council to issue and IHO to protect 4 Myrtle Street from demolition. This petition, called “Save Myrtle St Bowral” has been signed by over 160 persons and Council has also received 20 letters and emails from concerned residents requesting preservation of 4 Myrtle Street via an IHO. There has also been local paper coverage of this matter.

This community action is not surprising given the strong heritage theme reflected in the Community Strategic Plan—Wingecarribee 2031 which is represented in the actions under the key area of Places (namely strategy 3.2.2 to “*identify and protect the unique characteristics of towns and villages to retain a sense of place*” and strategy 3.2.3 to “*identify, protect and promote places of significant cultural heritage*”) and the community’s vision statement which is “*In 2031 we will be a healthy and productive community, learning and living in harmony, proud of our heritage and nurturing our environment*”.

Council has recently undertaken a review of a number of proposed heritage items deferred by Council in 2012 as well as other potential heritage sites and areas, and this review has recommended that the existing heritage conservation area in Bowral be extended to cover the section of Myrtle Street between Merrigang and Shepherd Streets. That review is expected to be reported to the Local Planning Panel and thereafter to Council in the first quarter of 2022.

Given this recommendation, and that 2 Myrtle Street could also be vulnerable to development under the Low Rise Housing Diversity Code, the IHO was approved covering these two sites. No. 6 has recently been renovated as a single family home and is not under threat but as it forms part of a cohesive group, 6 Myrtle Street will be included in any heritage assessment of the Myrtle Street area.

**Interim Heritage Order No. 13 – ‘Karingal’, 26 Elizabeth Street, Moss Vale**

This site is located on the southern side of Elizabeth Street between Robertson Road and Valetta Street.

The property comprises two allotments: Lot 1 DP 986025 contains the house and Lot 110 DP 877316 contains the garden. **Figure 2** shows an aerial photo of the property in the context of surrounding development. The house was built c.1927 (Interwar period) in a Californian Bungalow style out of dark bricks on Trachyte foundations with a tile roof and matching brick and Trachyte front fence that spans the width of the frontage. **Figure 3** shows a photo of Karingal from the street and **Figure 4** shows the gate and the detail of the front fence.

The site is zoned R3 Medium Density Residential and has a minimum lot size of 700m<sup>2</sup>. The total area of the property is 3,239m<sup>2</sup>.



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**Figure 2:** 'Karingal' (outlined) in the context of Elizabeth Street (Nearmap).



**Figure 3:** Photo of 'Karingal' from the street showing the brick and trachyte fence (Photo by B. Townsing, 2020).



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**Figure 4:** Detail of entry gate with aesthetically significant brick and trachyte fence (Photo by B. Townsing, 2020).

On 21 September 2021 a development application (DA 22/0513) was lodged for a 2-lot subdivision of the site with a carport proposed in front of the building line of the existing house. On 23 September 2021 a further DA (DA 22/0535) was lodged for a multi dwelling housing proposal on the proposed subdivided “vacant” lot. These applications were notified to neighbours and there has been a significant interest in these proposals.

Like 4 Myrtle Street, the community is upset about the proposed medium density development on the site, the dramatic reduction in the curtilage of ‘Karingal’, the loss of the garden and the impact on the fence. An online petition (on change.org) has been established by a local resident that requests Council issue an Interim Heritage Order over the site. This petition (called “Place an Interim Heritage Order on Karingal, 26 Elizabeth St, Moss Vale immediately”) has been signed by nearly 1,000 persons and Council has so far received a plethora of submissions lodged against both DAs, many of which specifically request an IHO.

Council has recently undertaken a review of a number of proposed heritage items deferred by Council in 2012 as well as other potential heritage sites and areas. ‘Karingal’ at 26 Elizabeth Street, Moss Vale, was a proposed heritage item deferred by Council in 2012 and the review has confirmed that ‘Karingal’ is of heritage significance and meets the threshold for heritage listing. That review is expected to be reported to the Local Planning Panel and thereafter to Council in the first quarter of 2022. However, the IHO will ensure that the proposed heritage listing of ‘Karingal’ is expedited.

#### Notifications

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Required notifications of the publication of the IHOs have been made to the owners and residents of the affected sites and a general notice appeared in Council's Community Update on 24 November 2021.

Notifications to the Chair of the Heritage Council of NSW, the development applicants and all the community members who made submissions to Council have also been undertaken.

**Next Steps**

The heritage assessments for the Myrtle Street houses will be undertaken over coming weeks.

The heritage assessment for 26 Elizabeth Street, Moss Vale, has largely been completed as part of the heritage review.

Both assessments will be reported to the Wingecarribee Local Planning Panel and thereafter to Council at the first available meetings of 2022. This report will include recommendations about the heritage listing of the site/s and/or inclusion in a heritage conservation area and the preparation of a Planning Proposal to effect the recommended heritage protection.

**ATTACHMENTS**

1. Gazette Notice for Wingecarribee IHO No. 12 and IHO No. 13 published on 19 November 2021

L.1 Interim Heritage Orders Nos. 12 and 13 for 2 & 4 Myrtle Street, Bowral, and  
26 Elizabeth Street, Moss Vale

ATTACHMENT 1 Gazette Notice for Wingecarribee IHO No. 12 and IHO No. 13  
published on 19 November 2021



## *Government Gazette*

of the State of

New South Wales

**Number 598—Planning and Heritage**

**Friday, 19 November 2021**

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The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, non-government and other notices.

Each notice in the Government Gazette has a unique reference number that appears in parentheses at the end of the notice and can be used as a reference for that notice (for example, (n2019-14)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal, see the Gazette page.

**L.1 Interim Heritage Orders Nos. 12 and 13 for 2 & 4 Myrtle Street, Bowral, and  
26 Elizabeth Street, Moss Vale****ATTACHMENT 1 Gazette Notice for Wingecarribee IHO No. 12 and IHO No. 13  
published on 19 November 2021****WINGECARRIBEE SHIRE COUNCIL  
HERITAGE ACT 1977  
INTERIM HERITAGE ORDER NO. 12**

Under Section 25 of the *Heritage Act 1977* Wingecarribee Shire Council does by this order:

- (i) make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule 'A'; and
- (ii) declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Schedule 'B'.

This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either:

- (1) in the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
- (2) in the case of an item which in the council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.

Geoff King  
Director, Communities and Place  
Wingecarribee Shire Council  
PO Box 141, Moss Vale NSW 2577

18 November 2021

**Schedule 'A'**

The properties situated at 2 and 4 Myrtle Street, Bowral, on the land described in Schedule 'B'.

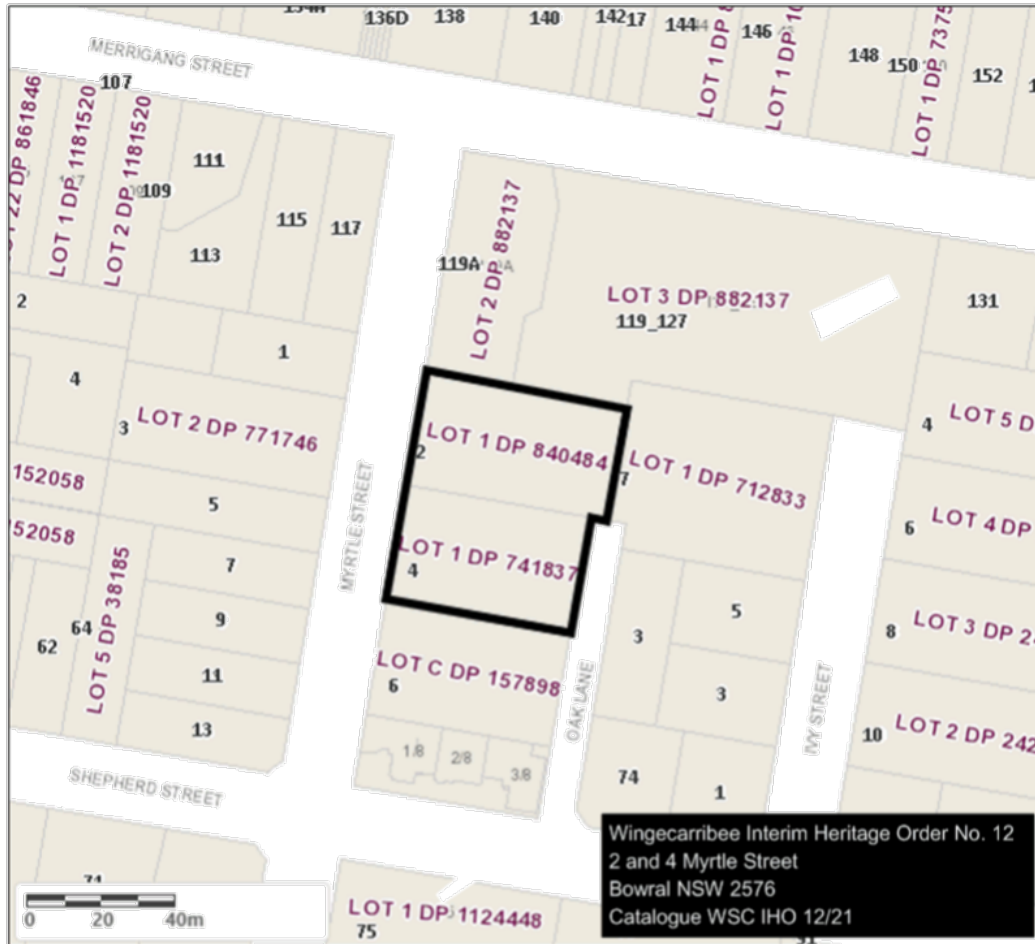
**Schedule 'B'**

All those pieces or parcels of land known as Lot 1 DP 840484 and Lot 1 DP 741837, shown edged heavy black on the plan catalogued WSC IHO 12/21.



L.1 Interim Heritage Orders Nos. 12 and 13 for 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale

ATTACHMENT 1 Gazette Notice for Wingecarribee IHO No. 12 and IHO No. 13 published on 19 November 2021



**L.1 Interim Heritage Orders Nos. 12 and 13 for 2 & 4 Myrtle Street, Bowral, and  
26 Elizabeth Street, Moss Vale****ATTACHMENT 1 Gazette Notice for Wingecarribee IHO No. 12 and IHO No. 13  
published on 19 November 2021****WINGECARRIBEE SHIRE COUNCIL  
HERITAGE ACT 1977  
INTERIM HERITAGE ORDER NO. 13**

Under Section 25 of the *Heritage Act 1977* Wingecarribee Shire Council does by this order:

- (i) make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule 'A'; and
- (ii) declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Schedule 'B'.

This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either:

- (1) in the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
- (2) in the case of an item which in the council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.

Geoff King  
Director, Communities and Place  
Wingecarribee Shire Council  
PO Box 141, Moss Vale NSW 2577

18 November 2021

**Schedule 'A'**

The property known as "Karingal" situated at 26 Elizabeth Street, Moss Vale, on the land described in Schedule 'B'.

**Schedule 'B'**

All those pieces or parcels of land known as Lot 1 DP 986025 and Lot 110 DP 877316, shown edged heavy black on the plan catalogued WSC IHO 13/21.

L.1 Interim Heritage Orders Nos. 12 and 13 for 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale

ATTACHMENT 1 Gazette Notice for Wingecarribee IHO No. 12 and IHO No. 13 published on 19 November 2021





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**L.1 Interim Heritage Orders Nos. 12 and 13 for 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale**

**Report Author: Strategic Land Use Planner (Heritage)**  
**Authoriser: Manager Strategic Land Use Planning**

The Manager Strategic Land Use Planning introduced the item.

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**OFFICER'S RECOMMENDATION**

**THAT**

1. The report be noted.
2. A report on the heritage assessments of 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale, be presented to the Local Planning Panel and Council in due course.

***MN 378/21***

**MOTION moved by Interim Administrator**

**THAT**

1. ***The report be noted.***
2. ***A report on the heritage assessments of 2 & 4 Myrtle Street, Bowral, and 26 Elizabeth Street, Moss Vale, be presented to the Local Planning Panel and Council in due course.***

**CARRIED**