



# MINUTES

of the  
Independent Advisory Planning  
Assessment Panel Meeting

held in

Civic Centre, Elizabeth Street, Moss Vale

on

**Wednesday 2 June 2021**

The meeting commenced at 3.30pm

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**MINUTES OF THE INDEPENDENT ADVISORY PLANNING  
ASSESSMENT PANEL MEETING**

Wednesday 2 June 2021



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**MINUTES OF THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL  
MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN CIVIC CENTRE, ELIZABETH  
STREET, MOSS VALE ON WEDNESDAY 2 JUNE 2021 COMMENCING AT 3.30PM**

<b>Present:</b>	Chairperson	Julie Walsh
	Expert	Scott Barwick
	Expert	Larissa Ozog
	Community Representative	Richard Colley
<b>In Attendance:</b>	Acting Deputy General Manager Corporate Manager Development Assessment Coordinator Strategic Land Use Planning Development Assessment Planner Senior Strategic Planner Coordinator ICT Operations Administration Officer	Danielle Lidgard (in part) Nancy Sample (in part) Michael Park (in part) Roland Wong (in part) Garima Mendiratta (in part) Ian Vong Michelle Richardson

## **1. OPENING OF THE MEETING**

The Chairperson opened the meeting and welcomed members of the public and the press.

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## **2. ACKNOWLEDGEMENT OF COUNTRY**

The Chairperson acknowledged country:

“Wingecarribee Shire Council acknowledge the Gundungurra and Tharawal people as the traditional custodians of this land we now call the Wingecarribee Shire. I pay my respect to Elders both past, present and emerging. I would also like to extend that respect to all Aboriginal and Torres Straight Islanders present here today.”

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## **3. APOLOGY**

There were no apologies at this Meeting.

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## **4. DECLARATIONS OF INTEREST**

That where necessary any interest now be disclosed and the reason for declaring such interest in the matters under consideration by the Panel at this Meeting and to complete the appropriate form to be handed up at the Meeting.

Scott Barwick declared a less than significant non-pecuniary interest in Item 5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition of a Building and Carrying Out of Works for the Purpose of Seniors Housing (21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon as he is a Director of a planning consultancy which had utilised Scott Lee, (the applicants' planning consultant for that item) for overload planning assistance approximately 3 years ago. He has no professional or personal relationship with Mr Lee. In those circumstances the Chair determined he could participate in the determination of that item.

Larissa Ozog declared a less than significant non-pecuniary interest in Item 5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition of a Building and Carrying Out of Works for the Purpose of Seniors Housing (21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon as she sits on the Wollongong Local Planning Panel with Scott Lee, (the applicant's planning consultant for that item). She has no professional or personal relationship with Mr Lee. In those circumstances the Chair determined she could participate in the determination of that item.

Richard Colley declared a less than significant non-pecuniary interest in Item 5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition of a Building and Carrying Out of Works for the Purpose of Seniors Housing (21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon as he has known one of the objectors Harvey Grennan as a journalist, some fifteen years ago and sees him occasionally in the streets of Bundanoon. He has no professional or personal relationship with Mr Grennan. In those circumstances the Chair determined he could participate in the determination of that item.

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## 5. DEVELOPMENT APPLICATIONS

### 5.1 Development Application 21/0291 - Subdivision of Land and Carrying Out of Works to Create Five Lots, and Carrying Out of Works for the Purpose of a Private Road, Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon

Report Author: Senior Development Assessment Planner  
Authoriser: Manager Development Assessment

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#### OFFICERS' RECOMMENDATION

*THAT the Independent Advisory Planning Assessment Panel determines development application 21/0291, for subdivision of land and carrying out of works to create five lots and carrying out of works for the purpose of a private road, at Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon, by REFUSAL of consent for the reasons specified in Attachment 1 to this report.*

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## PANEL DECISION

**THAT the Independent Advisory Planning Assessment Panel determines development application 21/0291, for subdivision of land and carrying out of works to create five lots and carrying out of works for the purpose of a private road, at Lot 32 DP1205423, 102-104 Old Wingello Road, Bundanoon, by REFUSAL for the following reasons:**

- 1 The Panel is not satisfied by the application and its accompanying information that existing and proposed stormwater drainage infrastructure is of sufficient capacity to cater for concentrated stormwater discharges from the proposed development. The Council requested the applicant provide relevant additional information to accompany the application, and the applicant is taken to have notified the requested additional information will not be provided, pursuant to clause 54 (6) of the Environmental Planning and Assessment Regulation 2000.**

**Consequently:**

- (a) The Panel is not satisfied by the application and its accompanying information that the proposed development complies with the acceptable stormwater disposal types specified by section A9.8 of the applicable Bundanoon Town Plan Development Control Plan regarding stormwater disposal.**
- (b) The Panel is not satisfied by the application and its accompanying information that the proposed development will not have a significant negative environmental impact on public utilities in the locality.**

- 2 The proposed development will cause the existing dwelling house on proposed Lot 2 to have a setback of approximately 2.7m from the front boundary of proposed Lot 2 (Rochester Drive), and a setback of approximately 1.8m from the rear boundary of proposed Lot 2.**

**Consequently:**

- (a) The proposed development is contrary to the front setbacks objectives specified by section C2.6.1 of the applicable Bundanoon Town Plan Development Control Plan regarding front setbacks:**

**C2.6.1 Objectives**

**The objectives of these front setback controls are to:**

- (a) Ensure the front setback of new infill development is consistent with the existing streetscape.**
- (b) Provide areas for trees and vegetation to enhance the streetscape and provide privacy.**
- (c) Preserve existing vegetation connections.**
- (b) The proposed development causes the existing dwelling house on proposed Lot 2 to contravene the minimum 6.5m front setback specified by section C2.6 of the applicable Bundanoon Town Plan Development Control Plan regarding front setbacks.**
- (c) The proposed development is contrary to the rear setbacks objectives specified by section C2.8.1 of the applicable Bundanoon Town Plan Development Control Plan:**

### **C2.8.1 Objectives**

***The following objectives apply to the provision of rear setbacks:***

- (a) Provide private open space for both active and passive recreation which has good solar access.***
  - (b) Ensure sufficient area on the site for mature trees and vegetation.***
  - (c) Ensure mid block tree canopy can be established or conserved.***
  - (d) The proposed development causes the existing dwelling house on proposed Lot 2 to contravene the minimum 5.0m rear setback specified by section C2.8 of the applicable Bundanoon Town Plan Development Control Plan regarding rear setbacks.***
  - (e) The proposed development is likely to cause significant negative environmental impacts in the locality with regard to:***
    - (i) Context and setting, particularly character, visual amenity and streetscape***
    - (ii) Site design and internal design, particularly the size, shape and design of proposed lots in relation to existing buildings.***
  - (f) The existing development on the land to renders it unsuitable for the development as proposed.***
- 3. The proposal fails to satisfy the objectives and controls of Part A6.1, Section 6 of the Bundanoon Town Plan DCP with respect to the preservation of trees and other vegetation. The proposed tree loss will have an adverse visual and environmental impact on the site and its immediate locality.***
  - 4. The proposed removal of the existing large, significant trees on the site to facilitate the proposal will have a detrimental impact on the amenity, biodiversity and ecology of the site and its streetscape and adversely affect the existing historic context and visual setting of this sensitive and important site.***
  - 5. The proposed design and subdivision of the site will have an adverse impact on the visual and physical curtilage and landscape setting and integrity of the existing house known as "Rochester Park".***
  - 6. The proposal will establish an undesirable precedent in the immediate locality.***
  - 7. The proposed development is not in the public interest.***

**REASONS: AS ABOVE**

**VOTING - UNANIMOUS**

## 5.2 Development Application 21/0662 - Erection of Buildings, Partial Demolition of a Building and Carrying Out of Works for the Purpose of Seniors Housing (21 self-contained dwellings) Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon

Report Author: Senior Development Assessment Planner  
Authoriser: Manager Development Assessment

Ms Robyn Mamouney addressed the Panel on this item  
Mr Geoffrey Allen addressed the Panel on this item.  
Mr Scott Lee addressed the Panel on this item.

### OFFICERS' RECOMMENDATION

***THAT the Independent Advisory Planning Assessment Panel determines development application 21/0662 for erection of buildings, partial demolition of a building and carrying out of works for the purpose of seniors housing (21 self-contained dwellings) at Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon by REFUSAL for the reasons specified in Attachment 1 to the report.***

### PANEL DECISION

***THAT the Independent Advisory Planning Assessment Panel determines development application 21/0662 for erection of buildings, partial demolition of a building and carrying out of works for the purpose of seniors housing (21 self-contained dwellings) at Lot 28 DP1065076, 115-129 Railway Avenue, Bundanoon by REFUSAL for the following reasons:***

- 1. The proposed design and siting of the development fails to satisfy Clause 101 of State Environmental Planning Policy (Infrastructure) as the proposed layout and access arrangements of the development will have an adverse impact on the effective and ongoing operation and function of Railway Parade which is a classified road having regard to the number of driveway crossings and vehicles being required to reverse out of the site.***
- 2. The proposed design and access arrangement fails to satisfy section A2.2.2, subsections (a) and (b) of the Bundanoon DCP as it is considered that the development will not improve traffic and parking within the town nor will it minimise vehicular and pedestrian conflicts.***
- 3. The proposed development fails to satisfy Clause 1.2 of the Wingecarribee LEP as the amount of tree loss and vegetation removal is unacceptable and will not satisfy the aims of the LEP which seek to conserve and enhance the ecological integrity, environmental heritage and environmental significance of Wingecarribee.***
- 4. The proposed development will have an adverse impact on the fabric, heritage significance, setting and integrity of the existing building and its immediate surrounds.***



5. *The proposed tree loss and site planning of the development will detract from the visual quality, amenity and adversely affect the curtilage of the building and its landscape setting and fails to satisfy the objectives of section A6.1.1 of the Bundanoon DCP in respect to heritage conservation.*
6. *The proposed development fails to satisfy section A6.1.7 of the Bundanoon DCP in that the amount and degree of tree loss is considered unacceptable and will have a significant impact on the amenity and aesthetic value and quality of the streetscape and subject land.*
7. *The proposed materials and finishes are considered inappropriate and fail to satisfy section C1.6.1 subsections (b) and (c) which encourage materials and colours to be selected that are consistent and compatible with existing development and adjoining properties. The proposed construction materials and colours are inappropriate and will not be sympathetic with the existing building and its surrounds.*
8. *The proposed development fails to satisfy the provisions of section A2.2.4, subsections (a), (b) and (c) and section C8.3 of the Bundanoon DCP in that the layout and design of the development is unsympathetic to the character of existing development in the immediate surrounds and is not considered to reflect the desired character of development on this site and in the locality as envisaged by the WLEP and Bundanoon DCP.*
9. *The design of the proposed development is considered to be poor and will not satisfy section C8.5 of the Bundanoon DCP as five (5) of the dwellings located within the existing building fail to achieve adequate levels of solar access and this is considered to be a poor planning and design outcome and the proposed 1.5metre side and rear setbacks are insufficient.*
10. *The proposed development fails to satisfy section C8.7 of the Bundanoon DCP in respect to accessibility, having regard to the condition of the footpath, the situation with the bus stops, and the distance of the site from the Bundanoon Town Centre.*
11. *The proposed development fails to comply with the provisions of section C8.13 of the Bundanoon DCP subsections (a) and (b) in that there are several bedrooms within the development which do not allow for a compliant and clear path of travel around the bed.*
12. *The internal amenity of a number of apartments is considered poor as there is a lack of storage space, some apartments do not include internal laundries and some rooms are substandard in the size and design. The proposed arrangement and design compromises the internal amenity and functionality of the development and therefore fails to comply with Section C8.15 of the Bundanoon DCP.*
13. *The proposed siting of car parking spaces is considered to be inappropriately located and unsafe for future occupants especially those that may reside in the existing building as parking is isolated and not easy to access and parking in the front setback is undesirable.*
14. *It appears that not all of the units/dwellings satisfy accessibility requirements*

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***15. The siting, layout, design and density of the development is considered to be an unsuitable development for this site and its context and is an overdevelopment of the site and is not considered to be in the public interest.***

***NOTE 1: The Panel noted the applicant's consultant's request for the application to be deferred. The Panel determined not to defer the application given the fundamental problems with the proposal.***

***NOTE 2: The Panel noted a number of submissions raised the issue of a proposed pedestrian pathway through the subject site. The Panel is of the view that provision of any such pathway is not a requirement generated by the proposed development.***

**REASONS AS ABOVE**

**VOTING - UNANIMOUS**

### 5.3 Development Application 21/1439 - 57 Young Road, Moss Vale - New Dwelling

Reference: 21/1439  
Report Author: Development Officer Planning  
Authoriser: Manager of Certification and Compliance

#### OFFICERS' RECOMMENDATION

*THAT Development Application 21/1439 for a proposed, single residential dwelling at Lot 2 DP 1270183 57 Young Road, Moss Vale be APPROVED subject to conditions as described in Attachment 2 to the report.*

#### PANEL DECISION

*THAT Development Application 21/1439 for a proposed, single residential dwelling at Lot 2 DP 1270183 57 Young Road, Moss Vale be APPROVED subject to conditions as described in Attachment 2 to the report with the following additional conditions:*

##### **10A Tree Protection Measures**

*Protective fencing is to be installed around the tree to be retained in line with the Tree Protection Zone. This fencing is to be constructed of chain wire mesh 1.8m high, which is supported by steel stakes or piping and braced to resist impacts and as per the requirements detailed in AS4970-2009 "Protection of Trees on Development Sites", the installation of which is carried out under the supervision of the arborist.*

*Note: Removal of the protective fencing during construction work will affect bonds and may result in fines or legal proceedings being instigated by Council against the applicant and/or builder.*

##### **10B Protection of Trees**

*Prior to any work commencing, certification of the installation and inspection of the required tree protection works is to be provided to Council and the Principal Certifying Authority by the arborist. A copy of the certificate is to be provided to Council within seven days of the inspection and prior to any works commencing.*

**REASONS:** The Panel generally agrees with the Council officer's report. The Panel has imposed an additional conditions to ensure retention of the significant tree in the North western corner of the subject site.

**VOTING** - UNANIMOUS

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## 5.4 Development Application 21/1589 - 30 Forest Road, Wingello - New Dwelling (Manufactured Home)

Report Author: Development Officer Planning  
Authoriser: Manager of Certification and Compliance

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### OFFICERS' RECOMMENDATION

*THAT Development Application 21/1589 for the proposed dwelling at Lot 2 DP 833354 No 30 Forest Road, Wingello be APPROVED subject to conditions as described in Attachment 2 to the report.*

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### PANEL DECISION

*THAT Development Application 21/1589 for the proposed dwelling at Lot 2 DP 833354 No 30 Forest Road, Wingello be APPROVED subject to conditions as described in Attachment 2 to the report.*

**REASONS:** The Panel generally agrees with the Council officer's report.

**VOTING - UNANIMOUS**

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## 5.5 S8.2 Review of DA19/1650 For an Eco Tourist Facility at 198 Foxgrove Road Canyonleigh (Appln 19/1650.01)

Report Author: Consultant Planner  
Authoriser: Manager Development Assessment

Mr David McKinley addressed the Panel on this item.  
Mr Frank Maly addressed the Panel on this item.

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### OFFICERS' RECOMMENDATION

*THAT Review of Determination DA 19/1650.01 – Proposed Eco-Tourist Facility at Lot 999 DP 818282 being 198 Foxgrove Road, Canyonleigh be REFUSED for reasons provided in Attachment 1 to the report.*

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## PANEL ADVICE

***The Panel's advice is that Review of Determination DA 19/1650.01 – Proposed Eco-Tourist Facility at Lot 999 DP 818282 being 198 Foxgrove Road, Canyonleigh should be REFUSED by the Council for the following reasons:***

- 1. The Panel is not satisfied that the proposal falls within the definition of “eco tourist facility” as defined under Wingecarribee LEP 2010 (the LEP) in terms of sub clause (c) of that definition “is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact”.***
- 2. The proposed development does not satisfy the zone objectives for E3 Environmental Management land under the LEP.***
- 3. The panel is not satisfied that the proposal will meet the following criteria in clause 5.13 of the LEP (Eco Tourist Facilities):***
  - a) there is a demonstrated connection between the development and the ecological, environmental and cultural value of the site or area***
  - b) the development to be located, constructed and maintained so as to minimise any impact on, and to conserve, the natural environment.***
  - d) the development to have minimal impacts on watercourses, soil quality and native flora and fauna.***
  - e) the site to be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment.***
  - f) waste generation during operation to be avoided and any waste appropriately removed.***
  - g) infrastructure services to be provided without significant modification to the environment.***
  - i) power and water where possible to be provided through the use of passive heating and cooling, renewable energy sources and water efficient design.***
  - k) satisfactory management strategy for minimising any impact of the development on the natural environment.***
- 4. The Panel is not satisfied in terms of clause 7 of SEPP 55 – Remediation of Land that the land will be suitable for its intended use***
- 5. The proposed development does not satisfy the criteria in Clause 7.4 of the LEP.***
- 6. The development will not be in the public interest having regard to the matters raised in the objections.***

***NOTE: As the original development application was determined by the full Council the Panel as the delegate of the council cannot determine the 8.2 Review Application.***

**REASONS – AS ABOVE**

**VOTING - UNANIMOUS**

## 6. PLANNING PROPOSALS

### 6.1 Planning Proposal to Rezone the Guula Ngurra National Park to E1 National Parks and Nature Reserves

Reference:	5901/84
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Sustainably manage natural resources for broader community benefit

#### OFFICERS' RECOMMENDATION

*THAT a Planning Proposal be prepared and submitted to the Department of Planning, Industry and Environment under Section 3.22 of the Environmental Planning and Assessment Act 1979, to rezone the recently reserved Guula Ngurra National Park in Canyonleigh to E1 National Parks and Nature Reserves; and remove the existing Minimum Lot Size on the reserved lots under the Wingecarribee Local Environmental Plan 2010.*

#### PANEL ADVICE

*THAT a Planning Proposal be prepared and submitted to the Department of Planning, Industry and Environment under Section 3.22 of the Environmental Planning and Assessment Act 1979, to rezone the recently reserved Guula Ngurra National Park in Canyonleigh to E1 National Parks and Nature Reserves; and remove the existing Minimum Lot Size on the reserved lots under the Wingecarribee Local Environmental Plan 2010.*

REASONS – AS ABOVE

VOTING - UNANIMOUS

The panel moved into closed session at 4.45pm.

The meeting reopened at 6.20pm when the Chair announced the Panel's decisions.

## 7. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.30 PM