



MINUTES

of the Local Planning Panel

held remotely using audio visual link and open to members of the
community via webcast

on

Wednesday 22 September 2021

The meeting commenced at 3.30pm



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**MINUTES OF THE LOCAL PLANNING PANEL OF WINGECARRIBEE SHIRE COUNCIL
HELD IN NATTAI ROOM, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON
WEDNESDAY 22 SEPTEMBER 2021 COMMENCING AT 3.30PM**

Present:	Chairperson	Michael Mantei
	Expert	Scott Barwick
	Expert	Linda Kelly
	Community Representative	Robert Staas
In Attendance:	Interim Deputy General Manager	Malcolm Ryan
	Manager Development Assessment	Nancy Sample
	Planning Consultant	Jeremy Swan
	Coordinator ICT Operations	Ian Vong
	Administration Officer	Leesa Stratford
	Governance	Ivana Vidovich

1. OPENING OF THE MEETING

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

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.”

3. APOLOGY

There were no apologies at this Meeting.

4. DECLARATIONS OF INTEREST

Scott Barwick declared a non-pecuniary, less than significant interest in **item 5.1**, S8.2 Review of DA21/0257.01 for a two (2) Lot Subdivision of land at Part Lot 313 DP 1245164, No. 27 Kimberley Drive, Bowral and **Item 5.2**, Development Application 21/1840 - Subdivision/Boundary Adjustment Between Two Lots - Lot 4 DP 339390 & Lot 6 DP 12732, No 36 Kangaloon Road Bowral. As he knows the planning consultant for both applications on a professional basis, with Mr Lee having provided backlog planning services to the firm of which he was a Director of approximately 3 years ago. He stated that this past professional association does not preclude him from exercising his duties as a member of the panel.

There were no other declarations of interest.

5. DEVELOPMENT APPLICATIONS

5.1 S8.2 Review of DA21/0257.01 for a two (2) Lot Subdivision of land at Part Lot 313 DP 1245164, No. 27 Kimberley Drive, Bowral

Reference: DA21/0257.01
 Report Author: Consultant Planner
 Authoriser: Manager Development Assessment

Mr Peter Rowe addressed the Panel on behalf of objectors to the application.

Mr Scott Lee, LEP Planning addressed the Panel of behalf of the applicant.

Mr Mark Dobler addressed the Panel as the owner.

This report of this report is to consider a Review of Determination of Development Application 21/0257.01 which seeks development consent for a two lot subdivision of land at Lot 313 DP 1245164, 27 Kimberley Drive, Bowral. The subject application was determined by way of refusal at the Independent Advisory Planning Assessment Panel on 7 April 2021.

Consultants:	Scott Lee, LEP Planning
Applicant:	Tujilo Pty Ltd
Land owner:	Dobler Properties Pty Ltd
Land zoning:	E3 Environmental Management
Applicant's estimated cost of proposed development:	Nil
Notification period:	26 June – 17 July 2021
Number of submissions:	16 submissions objecting to the Review of Determination
Political donations:	None identified
Reason for referral to Panel:	Review of Determination where original decision made by Independent Advisory Planning Assessment Panel

WLPP 2/21

MOTION

THAT the Local Planning Panel determines Review of Determination DA 21/0257.01 – Proposed Two (2) Lot Subdivision of Land at Lot 313 DP 1245164 being 27 Kimberley Drive, Bowral by APPROVAL, subject to the recommended conditions of consent as specified in the Attachment 1 to the report.

PANEL DETERMINATION

THAT the Local Planning Panel determines Review of Determination DA 21/0257.01 – Proposed Two (2) Lot Subdivision of Land at Lot 313 DP 1245164 being 27 Kimberley Drive, Bowral by APPROVAL, subject to the recommended conditions of consent as specified in the Attachment 1 to the Officers' report.

REASONS FOR DETERMINATION

The Panel has considered the Council officers' assessment report and its attachments. The Panel also received and considered additional information submitted by the objectors to Council prior to the Panel meeting. The Panel received a briefing from Council officers.

The application relies on the exception in clause 4.2D of Wingecarribee LEP 2010 to minimum 40 ha lot size that otherwise applies to subdivision of the subject land. The Panel considers that the application satisfies the prerequisites to the granting of development consent in clause 4.2D(4) for the reasons outlined in the applicant's planning report and the Council officers' assessment report. In reaching this conclusion the Panel considers that the proposed subdivision:

- is consistent with, and is necessary to give effect to the prior approval of the strata title villa units in "village 2" on the site under LUA 11/0869;
- is necessary to facilitate the future use of the strata titled villa units, unconstrained by the residue of the land in proposed lot 1;
- will not adversely affect the use of proposed lot 1 or any other surrounding land for agriculture purposes;
- is appropriate having regard to the natural and physical constraints affecting the land.

In addition to the matters in clause 4.2D, the Panel considers, on the basis of the heritage statement prepared by Dr Cosgrove dated 28 May 2021, and general terms of approval issued by the Heritage Council, that the proposed subdivision will not have an adverse impact on the heritage significance of the Milton Park Cultural Landscape. The Panel is satisfied that the matters in clause 5.10 of Wingecarribee LEP 2010 have been satisfied.

The Panel notes that the proposed subdivision does not involve an increase in the number of villa units approved under LUA 11/0869. The Panel is satisfied that appropriate easements will be created on the title of proposed lot 1 to ensure the owners of units in both village 1 and 2 will have continued access to the waste water facility on proposed lot 1.

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The Panel otherwise considers that the reasons for refusal of DA 21/0257.01 by the Independent Advisory Planning Assessment Panel on 7 April 2021 have been adequately addressed.

VOTING ON THE MOTION

Voting in favour of the motion: 4 – 0

PASSED

5.2 Development Application 21/1840 - Subdivision/Boundary Adjustment Between Two Lots - Lot 4 DP 339390 & Lot 6 DP 12732, No 36 Kangaloon Road Bowral

Reference: 21/1840
Report Author: Senior Development Assessment Planner
Authoriser: Manager Development Assessment

Mr Scott Lee, LEP Planning addressed the Panel of behalf of the applicant/owner.

This report presents Development Application 21/1840 for the Panel's consideration, and recommends approval subject to conditions specified in **Attachment 1**.

Consultants:	Scott Lee – LEP Planning
Applicant:	Scott Lee – LEP Planning
Land Owner:	V J and R Vella
Land Zoning:	R2 Low Density Residential under Wingecarribee LEP 2010
Applicant's estimated cost of development:	\$nil (subdivision/boundary adjustment only)
Notification period:	28 May to 21 June 2021
Number of submissions:	Nil
Reason for Referral to Panel:	Development proposes a variation of greater than 10% from controls in an environmental planning instrument.

WLPP 3/21

PANEL DETERMINATION

THAT the Wingecarribee Local Planning Panel determines development application 21/1840 for the subdivision/boundary adjustment between two lots at Lot 4 DP339390 and Lot 6 DP12732, No 36 Kangaloon Road, Bowral, by APPROVAL subject to conditions specified in ATTACHMENT 1 to the Officers' report.

REASONS FOR DETERMINATION

The Panel has considered the Council officers' assessment report and its attachments. The Panel received a briefing from Council officers.

The application relies on a request under clause 4.6 of Wingecarribee LEP 2010 to vary the minimum 2000 m² lot size that otherwise applies to subdivision of the subject land.

Having considered the information submitted by the applicant and the Council officers' assessment report, the Panel considers that the applicant has justified a variation to the minimum lot size. In particular, the Panel has taken into account the nature of the proposed subdivision being a boundary adjustment between two lots, both of which currently enjoy dwelling entitlements under Wingecarribee LEP 2010, and the subdivision is a rationalisation of those existing boundaries. No additional entitlements will be created.

On that basis, the Panel is satisfied that:

- compliance with the minimum lot size standard in clause 4.1 of LEP 2010 is unreasonable or unnecessary in the circumstances of the case (as required by LEP 2010 cl 4.6(3)(a)).
- there are sufficient environmental planning grounds justifying contravention of the standard in clause 4.1 of LEP 2010 (as required by LEP 2010 cl 4.6(3)(b)).
- the proposed subdivision will be in the public interest because it is consistent with the objectives of clause 4.1 of LEP 2010 and the objectives for development within the R2 zone (required to be considered under LEP 2010 cl 4.6(4)(a)(ii)).

The Panel is otherwise satisfied that the impacts of the proposed subdivision are acceptable and the site is suitable for the proposed subdivision for the reasons outlined by the applicant and Council officers' in the assessment report.

VOTING ON THE MOTION

Voting in favour of the motion: 4 - 0

PASSED

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Meeting closed to public for Panel deliberation at 4.23pm

Meeting reopened to public at 4.42pm

6. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 4:44 PM