

Dane [Mullyang] Shanahan

Joadja

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I allow my name to be stated publicly

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Subject: Formal Objection Submission to the Berrima Gaol Blue Sox Group Pty Ltd Berrima Hotel

Application Number

SSD-66876472

Assessment Type

State Significant Development

Development Type

Accommodation

Local Government Areas

Wingecarribee Shire

Exhibition Start-End Date

16/10/2025 - 26/11/2025

I Dane [Mullyang] Shanahan, declare that I have not made a political donation and the following objection submission is made with All Rights Reserved and Without Prejudice.

As a Ngambri man from the neighboring Nation, I write to lodge a formal objection to the proposed development of the former Berrima Correctional Centre, (Gaol) and to honor ancient International Treaty between our two Nations.

Cultural Heritage

Berrima Gaol and surrounds for the proposed site of 55 hotel apartments has been intergenerationally known to Gundungurra people as a burial place where our people were laid to rest. Between 2018 and 2020, when the site was an active women's prison, the grounds continued to be a place of culturally significant ceremony and knowledge exchange led by Gundungurra knowledge holder Aunty Trish Levett [Kalawatawarra] and First Nations prisoners.

The proposed multi-storey hotel apartments would visually dominate the Wingecarribee [Woonjegaribay] River and riparian zone. The vulnerable natural habitat is a profoundly significant and integral part of the Gurrangutch and Mirrangan creation story of the Southern Highlands, and a place where Gundungurra Law is held.

The proposed development requires extensive deep excavation that Gundungurra people know will disturb ancestral remains and other objects of profound spiritual significance.

Disturbing or excavating land knowing, or having reasonable cause to believe, that Aboriginal objects (including ancestral remains) are present is an offence under section 86 of the National Parks and Wildlife Act 1974, unless an Aboriginal Heritage Impact Permit (AHIP) has first been granted under section 90.

Astonishingly, the Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by Austral Archaeology contains no subsurface testing inspection, the Blue Sox contractors concluded the area is “largely disturbed” with “no discernible tangible heritage values.”

Gundungurra Elders and knowledge holders can advise that the site and its immediate surroundings contain ancestral burials and other relics of profound cultural significance. No meaningful consultation with the relevant Gundungurra stakeholders, and no engagement with this intergenerational knowledge have taken place.

In the absence of proper due diligence and genuine consultation, any application for an AHIP that purports to authorise disturbance of this known burial ground would be fundamentally flawed and should be refused. To downplay or dismiss the known cultural significance of this place — in the face of clear Gundungurra oral history and lived experience — amounts to an infantilisation of Gundungurra people, our knowledge systems, and our continuing connection to this Country.

I must impose a more pressing issue, the absence of any evidence of a lawful exchange of title between the Gundungurra People and colonial authorities—nor any subsequent rectification through treaty, consent, or natural justice—the NSW Government and its Ministers have acted unconscionably by transferring a mere colour of title to Blue Sox Pty Ltd for the redevelopment of Berrima Gaol. This flawed chain of title, rooted in the arbitrary seizure of Gundungurra Country in the 19th century without procedural fairness, perpetuates the meta-legal defects critiqued in *Colonial Land Title in Australia: A Meta-Legal Critical Inquiry* (Lilienthal & Ahmad (2019) *Commonwealth Law Bulletin* 45(2): 1–26). As the article elucidates, drawing on the rare judicial acknowledgment in *Mortimer v Auswide Services Ltd T/as Caloola Farm (In Liquidation) [2016] ACTSC 282*, such colonial grants—imported via feudal doctrines like *nulle terre sans seigneur*—were nullities for failing to recognise First Nations allodial (absolute) title, rendering downstream alienations vulnerable to challenge on equitable grounds of unconscionability. The purpose of the Commonwealth Law Bulletin is to inform and educate legal professionals, government officials, and academics about legal developments and emerging issues throughout the Commonwealth. It serves as a forum for sharing information and fostering harmonized approaches to legal matters across jurisdictions that share a common law tradition.

The 2022 divestment to Blue Sox Pty Ltd, via a \$7 million sale by Property and Development NSW, exemplifies this ongoing inequity: a State-owned asset, burdened by unextinguished Gundungurra prior rights, is repurposed for boutique hotel and entertainment uses without first addressing foundational title validity. Amid the current State Significant Development exhibition, this transfer demands scrutiny to prevent further dispossession.

Gundungurra Elders and knowledge holders must have self-determination and be empowered to lead an allodial title inquiry or judicial review, affirming our beneficial title. Anything less entrenches colonial genocide by inflicting on the group conditions in whole or in part, denying our living connection to Country.