

Submission Objection to Blue Sox Pty Ltd Berrima Hotel Proposal

Trish Levett

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Gerringong

NSW 2534

Gundungurra Community Group

Wingecarribee Shire

Proposal SSD-66876472

Lot 7304 of DP 1146099 and Lot 447 of DP 751252 by NSW Land and Property Information (LPI).

25th November 2025

I declare I have not made a political donation.

I allow my name to be published, however, please withhold address, email and phone number.

I am Aunty Trish Levett [Kalawatawarra] a Gundungurra Aboriginal Custodian and Elder.

Berrima Gaol was a women's correctional facility in two distinct periods: from 2001 to 2011 as a medium-security facility, and again from 2018 to 2020. During the earlier period, I worked as an Aboriginal Health Worker with the Wingecarribee Community Centre. In that role, I visited the gaol every fortnight to deliver cultural programs, including traditional dance, to First Nations women inmates. I also acted as an advocate for the women, raising their concerns and issues directly with the Governor-General.

Aboriginal people, particularly the Gundungurra, have maintained an enduring spiritual and cultural association with the lands and waters of Berrima, including the former Berrima Correctional Centre and its surrounds, which lie along the sacred Wingecarribee River (known traditionally as Woonjeegaribay).

I acknowledge the decision of the High Court of Australia in *New South Wales Aboriginal Land Council v Minister Administering the Crown Lands Act* [2016] HCA 50, which finally determined

that the site was not claimable Crown land under the Aboriginal Land Rights Act 1983 (NSW) at the time the claim was lodged in 2012.

That decision, however, does not extinguish continuing Gundungurra connection to Country, nor does it preclude the recognition or determination of *Mortimer v Auswide Services Ltd T/as Caloola Farm (In Liquidation)* [2016] ACTSC 282.

Berrima Gaol is listed on the State Heritage Register and forms an integral part of the nationally significant Berrima Conservation Area; it is situated on the banks of the Woonjeegaribay River. The tributaries, wetlands, floodplains and riparian zones of, and the rivers of the Woonjeegaribay are the place that holds our Gundungurra Law, these waterscapes are sacred to our people.

Regrettably, the Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by Austral Archaeology for Blue Sox Pty Ltd, relies on desktop review and visual inspection, the assessment falls short of the rigorous methodology expected for a site of sacred and cultural sensitivity and scientific potential. The decision not to conduct archaeology, citing potential asbestos contamination, appears difficult to justify. Asbestos risks are routinely and safely managed on contaminated sites in NSW.

I have reasonable cause to believe Aboriginal human remains, significant relics, are present in or around the grounds of Berrima Correctional Centre. Their undisturbed protection or, their proper investigation and management is not only a legal requirement but a fundamental ethical and cultural obligation. The current approach risks undermining confidence among Gundungurra custodians, the broader Aboriginal community, heritage professionals, and the public, that these obligations are being met.

I respectfully urge the Minister Paul Scully MP to require a more thorough and respectful investigation, including carefully controlled subsurface testing, to ensure both Aboriginal and colonial heritage values are fully understood and appropriately safeguarded before any further decisions are made.

Section 86 (as it currently stands after the 2023–2025 reforms) of the National Parks and Wildlife Act 1974 regard that it is an offence to knowingly disturb or excavate land that contains (or is reasonably likely to contain) an Aboriginal object or an Aboriginal place.

Gundungurra knowledge-holders know the area, especially above and below the riverside sandstone shelters and the gaol grounds, is highly likely to contain burial sites and other cultural material, I know Aboriginal human remains are present. My people have a meaningful role, in protecting heritage places and ensuring that future use of the site respects Gundungurra law and culture.

Gundungurra people assert our inherent right to self-determination in relation to our traditional Country, including the lands and waters of the former Berrima Correctional Centre and our sacred Woonjeegaribay River.

In the spirit of self-determination and in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, which Australia has endorsed, Gundungurra knowledge holders participate in good-faith mediation in relation to the current ownership, any future resale, or the ongoing redevelopment of the site.

I strongly encourage Blue Sox Group Pty Ltd and its successors in title to actively seek Gundungurra partnership and consent at every stage of the development process. Meaningful, early, and respectful engagement with Gundungurra knowledge holders is not only a legal and ethical obligation under NSW heritage and planning laws; it is a practical and powerful way to ensure the project proceeds with cultural legitimacy, community support, and lasting reconciliation outcomes.

The imposing sandstone walls of Berrima Gaol were always intended to be read in direct and dramatic contrast with the natural sandstone escarpment and the living, sacred Woonjeegaribay River below, Country walked, fished, camped, and cared for by Gundungurra people for countless generations. That relationship between the built colonial form and the enduring Gundungurra landscape is the very essence of Berrima's nationally recognised heritage significance. It must not be compromised.

True self-determination for Gundungurra people on this Country means far more than token consultation. It requires that Gundungurra voices, knowledge, and authority are placed at the centre of every decision that affects our cultural heritage and our continuing connection to this sacred place.

Austral Archaeology simply doing a desktop study walkover is not considered adequate for a site where Traditional Owners know of burial risk. The 2020–2025 Due Diligence Code of Practice and the new AHIP guidelines explicitly say that where there is “reasonable likelihood” of subsurface objects, test excavation is normally required.

As a Gundungurra Elder, before any ground-disturbing development can lawfully proceed, and as there is “reasonable cause to believe” the site contains Aboriginal objects including human remains I effectively force properly controlled subsurface testing and elect that a Gundungurra custodian of my choosing be present for archaeological investigation as cultural advisor/officer when this happens.

In short: the proponent can no longer plead ignorance. The Gundungurra evidence has put them on notice, so they must now either

- (a) redesign the project to completely avoid harm, or
- (b) undertake the proper archaeological investigations (including test excavation with Gundungurra involvement) and apply for a meaningful AHIP.

There is an ethical and cultural imperative that Aboriginal Gundungurra custodians be present during an archaeological dig on sensitive cultural lands in their traditional Country. This is not merely a recommendation but a legal requirement under NSW heritage laws and best-practice guidelines. Presence ensures respect for cultural protocols, incorporates Traditional Knowledge, and fulfills obligations to protect my cultural heritage. Absence could render the excavation non-compliant, potentially leading to project delays, permit denials, or legal challenges. My people's presence is required for burials or rock shelters; there are natural sandstone shallow rock shelters along the river walk all the way to Lambie's Well. Gundungurra custodians must be actively involved in fieldwork as the Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW (Heritage NSW, 2023) explicitly mandates participation in surveys, inspections, and digs to confirm site significance and avoid harm.

Our Gundungurra custodians hold irreplaceable knowledge of Country, including songlines, ceremonial sites, and spiritual connections and the journey of Gurangatch and Mirrigan. There is definitive proof of repeated occupation by the Gundungurra on this Country, excluding my people risks desecration and erodes trust. The Berrima Gaol site and surrounds present an opportunity, for our history and knowledge to be shared, remembering that Aboriginal culture is inclusive (not exclusive) as Welcome to Country demonstrates this care for others, and where we can then share knowledge together. Recent projects, like the Dargan Shelter excavation in Gundungurra/Dharug Country, (2025) demonstrate this concept, in a cave known as Dargan Shelter, believed to be the oldest known site of human activity at that high elevation on the Australian continent, also demonstrate how custodians' input has uncovered 20,000-year-old artifacts while ensuring repatriation and reburial of remains with cultural protocol.

The current redevelopment proposals, particularly the multi-storey apartment buildings planned outside the gaol walls, represent a profound intrusion. They would permanently fracture the protected, uninterrupted Georgian vistas from the village down to the river, vistas that have been deliberately preserved for almost two centuries. More gravely still, these structures and associated works threaten the habitat of the endangered platypus and the ecological and spiritual integrity of Woonjeegaribay itself, a river that remains central to Gundungurra law, ceremony, and identity.

The sandstone landscape below the Gaol along the Woonjeegaribay River connects to the Berrima Wildlife Reserve, these places support a diverse array of native fauna, besides being a

key corridor for aquatic and semi-aquatic species, such as eels, the surrounding forests and reserves host an abundance of mammals, reptiles, birds, amphibians, and invertebrates. Along the riverwalk are scar tree evidence of my people's occupation, these places also form my lived experience as I honour my Ancestors. During my care for Country over the years there I have seen countless various lizards including blue tongue and water dragons also echidna, wallaby, wombat (there is a large burrow about 500 meters from the Gaol) platypus and many birds including migratory visitors, galahs, gang gangs and black cockatoos. Kookaburras, magpies, blue wrens and honeyeaters have their home there and my totem, the dragonfly, can be seen all along this protected area.

The Gundungurra Elders are willing to work collaboratively with adaptive reuse developers of the former Berrima Gaol, the Wingecarribee Shire Council, and the NSW Government toward outcomes that respect and protect both the Colonial and Gundungurra layers of this landscape.

However, any plan that sacrifices the natural sandstone backdrop, the sacred river, the riparian zone of nutrient and groundwater, its platypus population, and the historic view corridors for private profit development, cannot be supported and is fundamentally incompatible with Gundungurra self-determination and the long-term heritage values of Berrima.