

DATE OF DETERMINATION	Thursday, 9 May 2019
PANEL MEMBERS	Gordon Kirkby (Chair), Mark Grayson, Ruth Fagan, Ian Kreutzberger and Bill Bott
APOLOGIES	None
DECLARATIONS OF INTEREST	Daris Olsauskas - Has a direct conflict of interest with the development proposal through Daris' current engagement by OEH

Public meeting held at Federation Council, 100 Edward Street, Corowa on 9 May 2019, opened at 12.00pm and closed at 1:45pm.

MATTER DETERMINED

2018WES009 – Federation Council – DA2018-39 at 'Warrawidgee' 803 Spring Drive Corowa NSW 2646 – Proposed Eco-Tourist Facility (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

- The Panel was not satisfied that the proposed development met the definition of "eco-tourist resort" under Corowa LEP 2012, particularly the requirement that the development be "sensitively designed and located so as to minimise bulk, scale and overall physical footprint or any ecological or visual impact, and is therefore prohibited development.
- In making this decision, the Panel took into consideration the criteria in Clause 5.13(3) of Corowa LEP 2012 and was of the opinion the development did not meet all the criteria as required by the clause as outlined in Section 11.7 of Council's assessment report.
- The Panel was satisfied that the definitions of "river" and "river front area" in the Dictionary to Corowa LEP 2012 apply to Boiling Down Creek as an anabranch of the Murray River. Therefore, significant components of the proposed development would be located within 100m of the high bank of the river and located within "river front areas". These components of the development are prohibited under Clause 7.6 of Corowa LEP 2012.

On the basis of the above, the Panel has unanimously agreed that the development is prohibited. The decision of the panel is that the development be refused.

CONDITIONS

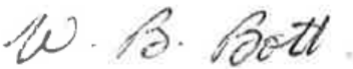
Not applicable

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel notes that issues of concern included:

- Permissibility of the proposed development;
- Bushfire risk;
- Impact on water quality in the river;
- Potential privatisation of the Boiling Down Creek area;
- Potential land contamination on the property associated with former agricultural activities and a rendering plant;
- Impact on adjoining agricultural properties;
- Flood risk;
- Safety of visitors accessing Boiling Down Creek;
- Lack of detail on water supply and wastewater management;
- The location of the high bank of the river was incorrect in the SEE documentation

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Mark Grayson
 Ruth Fagan	 Ian Kreutzberger
 Bill Bott	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018WES009 – Federation Council – DA2018-39
2	PROPOSED DEVELOPMENT	Proposed Eco-Tourist Facility (Conservation holiday resort of transportable cabins)
3	STREET ADDRESS	803 Spring Drive, Corowa
4	APPLICANT/OWNER	Ben Fryer, Warrawidgee Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Eco-tourist facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - Environmental Planning and Assessment Act 1979 - Environmental Planning and Assessment Regulation 2000 - State Environmental Planning Policy (Building Sustainability Index: BASIX 2004) - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy No 44 – Koala Habitat Protection - Statement Environmental Planning Policy No 55 – Remediation of Land - Murray Regional Environmental Plan No.2 – Riverine Land - Corowa Shire Developer Contributions Plan 2006 - Draft environmental planning instruments: Nil - Development control plans: - Corowa Shire Development Control Plan 2013 - Planning agreements: Nil - Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council assessment report: 23 April 2019 - Written submissions during public exhibition: 13 - Verbal submissions at the public meeting: - In objection – Rob Pearce, Peter Wright, Rochard Sargood, Noel Wilson (on behalf of Derek Schoen), Chris Beale and Michael Love - Council assessment officer – Gary Salvestro (consultant) - On behalf of the applicant – Warwick Horsfall and Ben Fryer
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Site inspection: Thursday, 9 May 2019 - Final briefing to discuss council's recommendation, Thursday, 9 May 2019, 11.00am. Attendees: <u>Panel members</u>: Gordon Kirkby (Chair), Mark Grayson, Ruth Fagan, Ian Kreutzberger and Bitt Bott <u>Council assessment staff</u>: Gary Salvestro (consultant)
9	COUNCIL RECOMMENDATION	Refusal

10	DRAFT CONDITIONS	Not Applicable
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