

DATE OF DETERMINATION	29 June 2026
DATE OF PANEL DECISION	26 June 2026
DATE OF PANEL BRIEFING	23 June 2026
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas, Heather Warton, Richard Colley
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 17 June 2026.

MATTER DETERMINED

PPSSTH-540 - WINGECARRIBEE - DA26/0352 - 30 Douglas Road MOSS VALE 2577 (Lot 40 DP 1288692) – Proposed Gas Power Generator and Construction of a Battery Energy Storage System and Associated Equipment and works (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 briefings listed at item 8 in Schedule 1.

Development application

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 determined to refuse the application, subject to the reasons outlined in the Council Assessment Report, and as amended by the Panel and attached in Schedule 2. The Panel determined that the development application:

- Should have been accompanied by an environmental impact statement (EIS) and processed as designated development, noting that the proposed BESS would be capable of supplying in excess of 30 MW of power
- Had failed to demonstrate that the development is:
 - unlikely to have an adverse impact on both the natural and built environments in the locality.
 - that the site is suitable for the proposed development.
- Given the above, the Panel was satisfied that the development was not in the public interest.

The Panel made three changes to the recommended reasons for refusal:

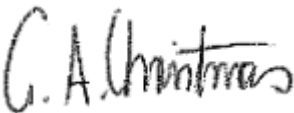
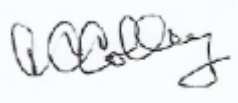
- Reason 2 was deleted, given that WaterNSW had issued its concurrence for the development application in correspondence dated 29 October 2025.
- Reason 9 was amended to clarify that it was the supplying capacity of the proposed BESS that was the trigger for designation pursuant to 7, Part 2 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2021*.
- Reason 12 was deleted, given that the Council had not issued a formal Request for Information (RFI) and the Panel could not be satisfied that the Applicant had been given the opportunity to respond formally.

CONSIDERATION OF COMMUNITY VIEWS

In reaching its decision, the Panel considered written submissions made during the public exhibition. The Panel notes that issues of concern included:

- Visual amenity and character
- Noise and amenity impacts
- Energy source and sustainability
- Planning and zoning
- Traffic, roads and transport

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and the recommended reason for refusal.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	 Heather Warton
 Richard Colley	

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSSTH-540 - WINGECARRIBEE - DA26/0352
2	PROPOSED DEVELOPMENT	Proposed Gas Power Generator and Construction of a Battery Energy Storage System and Associated Equipment and works
3	STREET ADDRESS	30 Douglas Road MOSS VALE 2577 (Lot 40 DP 1288692)
4	APPLICANT/OWNER	Applicant – The Trustee for Nakar Property Unit Trust Owner – The Trust for Nakar Property Trust
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Sustainable Buildings) 2022 ○ Wingecarribee Local Environmental Plan 2010 • Draft environmental planning instruments: Nil • Development control plans: ○ Moss Vale Enterprise Corridor Development Control Plan • Planning agreements: Nil • Relevant provisions of the: • <i>Environmental Planning and Assessment Regulation 2021</i> • <i>Protection of the Environment Operations Act, 1997;</i> • <i>Water Management Act 2000;</i> • <i>Biodiversity Conservation Act 2016;</i> • <i>Environmental Planning and Assessment Regulation 2021;</i> • <i>Biodiversity Conservation Regulation 2017;</i> • 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: 17 June 2026 • Written submissions during public exhibition: 7 • Total number of unique submissions received by way of objection: 6
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Final briefing to discuss council's recommendation: 23 June 2026 ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, Heather Warton, Richard Colley ○ <u>Council assessment staff</u>: Parin Kolbadi, Bryce Koop, Jon Shillito ○ <u>Applicant representatives</u>: Nil ○ <u>DPHI</u>: Amanda Moylan, Tracey Gillett
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2 – Reasons for Refusal

1. Pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to enable the consent authority to determine whether the site is suitable for the proposed development, having regard to the requirements of section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021.
2. Pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application does not include any assessment addressing the interface between the proposed development and the adjoining rail corridor, including potential operational or traffic-related impacts associated with the development's proximity to rail infrastructure.as required under Section 2.98 – Development adjacent to rail corridors under chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021.
3. Pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, no supporting information has been provided to demonstrate that the potential safety impacts of the proposed development, including any risks to the integrity and operation of the gas infrastructure .as required under section 2.77 – Determination of development applications adjacent to land in a pipeline corridor under chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021.
4. Pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to demonstrate compliance with section 3.2 (Development consent for non-residential development) of Chapter 3 of the State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP).
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to ensure that the proposed development is consistent with the following objectives of the E4 General Industrial zone under the Wingecarribee Local Environmental Plan 2010.
 - *To minimise any adverse effect of industry on other land uses.*
 - *To ensure new development and land uses incorporate measures that take into account the spatial context and mitigate potential impacts on neighbourhood amenity and character and the efficient operation of the local and regional road system.*
6. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to ensure that the proposed development is consistent with the following clauses under the Wingecarribee Local Environmental Plan 2010:
 - *5.21 Flood Planning*
 - *7.3 Earthworks*
 - *7.5 Natural resource sensitivity – water*
7. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the Objectives and Controls as they relate to the following provisions of the Moss Vale Enterprise Corridor Development Control Plan:
 - *3.1 Land Use*
 - *3.4 Building sitting and design*
 - *3.5 Energy Efficiency*
 - *3.9 External lighting*

- 3.10 Landscaping
- 3.11 Utility Services
- 3.12 Biodiversity Conservation
- 3.15 Air Quality
- 3.16 Flood-prone land and stormwater management

8. Pursuant to section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*, the proposed BESS is capable of supplying more than 30 MW of electrical power and is therefore classified as designated development under Clause 7, Part 2 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2021*.
9. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the application does not provide sufficient information to determine that the development is unlikely to have an adverse impact on both the natural and built environments in the locality.
10. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the application lacks sufficient information to demonstrate that the site is suitable for the proposed development.
11. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development is not in the public interest.