

## **HISTORICAL DEVELOPMENT CONSENTS IN NSW**

**Organisation:** Huskisson Heritage Association Inc

**Date Received:** 28 May 2024

Submission to Legislative Assembly, Committee on Environment and Planning:

**Inquiry into historical development consents in NSW**

Submission from Huskisson Heritage Association Inc.

[REDACTED]

[REDACTED]

Historical development consents relating to parcels of land with DAs approved decades ago are colloquially known as ‘zombie DAs’ with good reason. The number and age of historical development consents in the Shoalhaven LGA is unknown, there is no database, and Council’s planning officials are unable to provide this information. These ‘zombie DAs’ may rear their heads at any time. This is of great concern, especially given the context of enormous coastal development pressures in our area.

These historical development approvals may not consider:

- Changed understanding of environmentally sound practice.
- Current planning and environmental laws. In some cases, old land zonings established in the 1960s have been simply transferred over to more recent planning instruments in the Shoalhaven with only the date altered. This is more than a loophole; it makes a mockery of current political intentions of planning legislation.
- Ecological data not known at the time of approval.
- Altered land conditions. In the case of our region, this includes:
  - changed realities as a result of climate change resulting in higher sea levels.
  - alterations to natural habitat as a result of bushfires as well as ongoing development pressures in both urban and rural areas.

In relation to heritage issues, what is considered heritage now and what may have applied decades ago are very different. Community and professional understanding of heritage issues, in relation to both the built form and to natural assets, have evolved and shifted. This includes greater recognition of Indigenous heritage.

The conditions of ‘commencement tests’ currently in place are little more than a sham, creating the ongoing viability of an ancient DA can be protected by a little as the erection of a fence or removal of a couple of trees. A reasonable time limit allowing re-assessment of development approvals after an agreed lapse of time is essential. This will encourage genuine development by discouraging cynical ‘parking’ or ‘banking’ of approvals.

We submit that without a reasonable time frame placed on activation of development applications, advances in planning legislation are undermined, in some cases resulting in poor and/or destructive results for urban development and design for our villages and towns, as well as for coastal, river and riparian health.

In recent years some of these old and dormant approvals have surfaced in unanticipated and inappropriate places. Local knowledge of some in our small part of the Shoalhaven include:

Edendale Street, Woollamia: This is a flood prone area, where inundation from Currumbene Creek is increasing, and where approximately 1.2 hectares of tall coastal forest, water absorbing trees were felled in September 2022, including many hollow bearing habitat trees and at least one estimated to be 400-450 years old. This forest mitigated flooding.

Details of the relevant DA approved in 1995 [almost 30 years ago !!!] are apparently lost, and citizens are left to second-guess what further works will occur. The current owner appears to be making attempts to build up the level of about 12 building blocks above the flood levels and these hard surfaces will only exacerbate flood heights. A narrow bridge on Edendale Street that allows entry to the land is also subject to flooding, its head wall has partially collapsed and the road subsided. and if this development proceeds it will have the effect of increasing future flooding to the surrounding residential streets.

It is difficult to see the impacts of activation of this historical DA as anything other than disastrous. This is in contravention of current state government policy to limit or prevent further development in flood prone sites – see, for example N S W Planning Circular issued 1 March 2024,(PS 24-001) ‘Update on addressing flood risk in planning decisions’ which supplements PS 21-006 ‘Considering flooding in land use planning: guidance and statutory requirements and provides additional information to planning authorities in relation to addressing flood risk in land use planning and development assessment under the Environmental Planning and Assessment Act 1979 (EP&A Act).

It is understood that another large land lot is owned by the same developer along Woollamia Road where large amounts of fill have been added to raise future buildings above flood height with the potential future dwellings ‘marooned’ within a flooded landscape.

4 Murdoch Street, Huskisson. The resuscitation of a 2012 development consent has resulted in an approved development widely believed to endanger the aquatic ecosystem of Moona Moona Creek which flows into the Jervis Bay Marine Park. Consistent with historical approvals, this DA does not address current expectations, including for protection of threatened species. In 2022 the destruction of Blackbutts (*Eucalyptus Pilularis*) resulted in removal of many hollows where, until then, gang gangs were nesting. Gang Gangs are listed as endangered.

The age of this approval makes the environmental considerations written into it at the time redundant and largely irrelevant. This proposed building will be less than 40 meters from the edge of Moona Moona Creek. This watercourse has had its banks altered through bridge construction in the past, and there is no current survey of either the creek or the estuary to guide developments.

Further, there is little recognition of the Indigenous cultural heritage of the property.

Huskisson Hotel. Approval was given in 2010 to develop a four/five story building and subsequent ‘modifications’ concerning details of car parking provisions, have been assessed as ‘minimal’, ... relating to substantially the same development for which consent was originally granted’. [Huskisson Hotel, ‘Modification Assessment, Dept. Planning & Environment, March 2020].

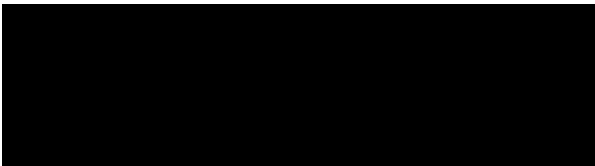
This is an iconic building on the dominant site in Huskisson, fronting the estuary of Currumbene Creek and Jervis Bay. Because of the age of the approval in 2010, it was assessed under SLEP 1985, while the current SLEP dates from 2014. If development were to go ahead without

revisiting this proposal, it will not reflect current understandings of the role of this premier site within the overall planning of the town.

A State Planning report reproduced within the Shoalhaven DCP 2014 recommends that 'further development on the Huskisson Hotel Site should have regard to... 'integration with Local Context and Building Patterns...The maximum height for the site needs to be considered in relation to heights within the town centre. On this basis a general height of 3 storeys is preferred, with setbacks to an upper fourth storey in appropriate locations. [Shoalhaven Development Control Plan 2014, Ch N18 'Huskisson Town Centre', 2 'Development Application Review Urban Design Review, Proposed Accommodation Units, Owen Street, Huskisson – Huskisson Hotel, Urban Design Advisory Service, for NSW Department of Urban Affairs & Planning. Such recommendations it appears are just recommendations and can be ignored, trumped by an old and inappropriate approval.

According to local intelligence, in recent years Aboriginal artifacts have been exposed and hidden/ignored on this site. The Huskisson Heritage Association has some photographic evidence of this. Given its location it is entirely probable that excavations will uncover more.

There are no doubt other historical development consents that we do not know about. Building and developing according to what was lawful at the time of approval makes a mockery of planning legislation.



President, Huskisson Heritage Association

28 May 2024.