

## **HISTORICAL DEVELOPMENT CONSENTS IN NSW**

**Organisation:** Kiama Municipal Council

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**KIAMA MUNICIPAL COUNCIL**  
your council, your community

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Legislative Assembly Committee on Environment & Planning  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Attention: Clayton Barr - Committee Chair

Dear Sir

**Kiama Municipal Council Submission to the NSW Legislative Committee on  
Environment and Planning  
Inquiry into historical development consents in NSW**

Thank you for the opportunity to make a submission to the inquiry into historical development consents in NSW. The following submission has been prepared by Council Officers and has not been endorsed by resolution of Kiama Municipal Council.

It has long been known that the persistence of historical development consents has the potential to significantly impact various stakeholders and the environment.

Uncertainty surrounding unresolved applications can disrupt communities, leading to sites being developed in a manner which is potentially inconsistent with current community expectations and strategic vision and direction.

Prolonged construction activities associated with the reactivation of historical development consents can cause previously unforeseen environmental harm, including habitat destruction and increased pollution.

Thankfully, conditions of consent relating to environmental impact and management have evolved significantly in recent years as our understanding and knowledge of these potential impacts has also evolved.

Historical development consents often have minimal conditions relating to sediment control, contaminated land, stormwater management and flora and fauna protection, which can result in an unacceptable impact to the site and surrounding lands by today's standards.

To effectively address the issue of historical development consents, several legal and policy changes would be of benefit.

In this regard, Council would welcome planning reforms to streamline planning processes, including clearer guidelines and proactive engagement with developers of historical development consents.

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Council would support the introduction of accountability mechanisms, such as performance targets and penalties for construction delays which could be used to incentivise developers to prioritise timely completion of approved development applications.

The following are potential changes to the EPA Act 1979 that Council has identified which may mitigate some of the potential impacts of an outdated legacy consent.

1. Revocation of Consent: The EPA Act 1979, Cl.4.57 could be bolstered to include provisions for the lapsing of projects beyond a certain date or point from the satisfaction of "physical commencement".
2. Lapsing of Consent: The EPA Act 1979, Cl.4.53(4) could be revised to consider the impacts of an approval existing in perpetuity once physical commencement is satisfied and possibly be re-written to provide a "sunset" clause for applications of a certain type/scale/age.
3. Limitations on the lodgement of Modification applications: The EPA Act 1979, Cl.4.55 could be revised to provide limited opportunity to lodge an application to modify an existing consent. For example, if the EPI which acted as the mechanism to provide the permissibility of the approved land use has been superseded, a modification to that approved land use may not be lodged and a new application must be considered.

Also, due to an applicant's ability to lodge a modification for extremely old development approvals, the fees collected by Council are also very low as they are calculated on a percentage of the original Development Application fees. This ultimately places an unacceptable additional financial burden on Council. Therefore, a revision on how fees are calculated for these types of applications also needs to be considered as part of this inquiry.

Finally, in addition to all matters raised above, stalled development projects also result in wasted resources, increased costs for developers, and missed opportunities for economic growth.

Council welcomes this inquiry and the opportunity to contribute and work with the committee on this important issue. In this regard, if you wish to discuss any aspect of this submission or wish to arrange a meeting, please contact Councils Manager Planning and Economic Development Cheryl Lappin at [REDACTED]

Yours faithfully

[REDACTED]

Jessica Rippon  
**Director Planning, Environment & Communities**