

**Submission
No 161**

HISTORICAL DEVELOPMENT CONSENTS IN NSW

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Submission to the Inquiry into historical development consents in NSW

Dear Committee,

I am making my submission into the historical development consents in NSW (also known as 'Zombie DA's) because: 'The Committee would really like to hear from members of the community, businesses and local councils who live near or are affected by historical development consents.'

I both live nearby to Wallum Brunswick Heads (approximately 2km as the glossy black cockatoo flies) and am also affected by the resurrection of this historical 'Zombie' Development Agreement.

I will concentrate in my submission upon the ways in which I am affected and broader matters of concern to the community at large arising from such Zombie DA's.

The first thing one is aware of as one begins to walk in Wallum is the quiet presence of the majestic Scribbly Gums.

Please refer to the media attached to this submission, an image of a mature Scribbly Gum in Wallum. One walks amongst these gums, hearing the vivid insect and bird life sounds as one walks slowly through this unique, vital eco-system.

'Wallum' constitutes a significant part of the mere 1% remaining Wallum Heathland in Byron Shire - the only representation of this ecological community in Brunswick Heads. Heathland wildflowers are very evident at this time of year and crown the surface of Wallum's sandy soil, under which lies thousands of years of organic deposition of unique plant matter and bushfire ash. This process culminates into what we know as coffee rock - a peat substrate that hardens around sand, forming a water-dense layer that encourages permeation and retention of water for wildflower swamps. This unique soil matrix is what sustains the extremely specific Wallum Wildflower Heathland ecology.

I understand that some 76 of these large, mature old-growth trees are to be destroyed to make way for the perhaps 126 households of the development. Not only 76 old-growth Scribbly Gums but also 27 Swamp Mahogany trees and 38 mature She-oak trees are marked for destruction. Here we have a remarkably intact example of the 1% remaining Wallum Heathland, hemmed in and surrounded by development as it is. The loss of such a vast number of mature trees could only have an extremely detrimental, even devastating, effect upon this precious, unique, eco-system.

One immediate effect is that upon our Koalas.

Bushfires and Habitat loss have ravaged our nation's Koala population, rendering them officially an Endangered Species. 70% of NSW's Koala population were estimated to have been killed in the Black Summer Bushfires. Without intervention focusing on conserving Koala habitat, Koalas are predicted to become extinct before 2050.

Please note, there are koala scratch-marks apparent upon Wallum's Scribbly Gums.

As noted above, 76 old-growth Scribbly Gums will be destroyed if this development goes ahead.

Some of these Scribbly Gums are 300-400 years old, bearing large hollows that provide irreplaceable habitat for wildlife. Scribbly Gum leaves are an important part of the koala nutrition matrix, as are Swamp Mahogany Trees - 27 of which are also earmarked for destruction.

The Qld Department of Environment, Science and Innovation (DESI) states in: <https://environment.desi.qld.gov.au/.../koalas/facts...>

under 'Koala Facts' that: ultimately their habitat is defined by the presence of a select group of food trees. Koalas are found in higher densities where food trees are growing on more fertile soils and along watercourses.

We can consider Wallum to be a food rich, wetland habitat.

Further, that:

Local extinctions have occurred due to clearing and fragmentation of eucalypt woodlands and forests for agriculture and human settlement.

Considering:

In February 2022 the status of the koala has recently been changed from vulnerable to endangered. The change in status means an increased level of protection for koalas in Queensland, New South Wales and the Australian Capital Territory.

Here we have an iconic species, a species that is present in Wallum, a species that is now afforded 'an increased level of protection' yet which will locally suffer tremendous harm and loss should this 'Zombie DA' go ahead.

Clarence Property plans to replace these mature trees with 54 saplings. Saplings would take up to 30 years to reach a point of providing sufficient habitat and food source for Wallum's Koalas. Even upon reaching sufficient maturity, these saplings may not be suitable due to the variable nutritional quality of individual trees. Additionally, improper landscape positioning will not provide adequate corridors for koalas to travel within.

Let us look at what the NSW Government says of the Koala:

<https://www.environment.nsw.gov.au/.../koala-conservation>

The koala has been allocated to the iconic management stream of Saving our Species because of its significant social, cultural and economic importance.

Here we have:

a whole-of-government NSW Koala Strategy to stabilise and then start to increase koala numbers.

Under this strategy:

Habitat loss and climate change are the most serious threats to koala populations. To double koala numbers, significant increases in koala habitat area and condition are needed.

[T]he NSW Government is investing \$107.1 million over 5 years to mitigate impacts from habitat loss and climate change and to protect, restore and improve the condition of 47,000 hectares of koala habitat.

<https://www2.environment.nsw.gov.au/.../koala-habitat...>

That strategy appears to be starkly at odds with the devastating impact of the resurrection of a local 'Zombie DA'. Surely the committee may consider the direct contravention of a 'whole-of-government NSW Koala Strategy' to be a highly significant and unwanted effect of the existence of these Zombie DA's.

On a purely personal note, the thought of large bulldozers just 10 minutes drive from my home smashing down up to 400 year old trees which are significant habitat and food sources for a wide variety of endangered Australian wildlife including the beloved Koala is a terrible one. This would be an incalculable loss for current and all future generations.

Surely the benefit to the community of the preservation of such a unique, even extra-ordinary community as Wallum outweighs the supposed benefit to Clarence Property and the 126 households of the Wallum development?

And the Koala is just one of number of species that are culturally and environmentally significant. Here is a list of threatened species of flora and fauna

that Wallum, due to its highly specialised ecology, is able to host, some of which are of State and National conservation significance. Including:

Koala, Wallum Sedge Frog, Wallum Froglet, Glossy Black Cockatoo, Eastern Grass Owl, Grey-Headed Flying Fox, White-Throated Needletail, White-bellied Sea Eagle, Collard Kingfisher, Common Planigale, Pale-Vented Bush-Hen, Little Bent-Wing Bat, Large Bent-Wing Bat, Greater Broad-Nosed Bat and Southern Myotis, Pink Nodding Orchid and the Endangered Ecological Community of Swamp Sclerophyll Forest (on Coastal Floodplain). Leading ecologists who have put forth concerns about this development proposal have also remarked that with adequate surveying more threatened species are likely to be verified as present. These include: Mitchells Rainforest Snail, Regent Honeyeater, and Swift Parrot.

The NSW Department of Environment and Heritage says of the Glossy Black Cockatoo: Glossy black-cockatoos, or glossies, are listed as vulnerable in New South Wales. These amazing birds need corridors of native vegetation with big tree hollows for nesting and feed trees such as she-oaks (*Allocasuarina* spp.) to move across the broader landscape and thrive.

<https://www.environment.nsw.gov.au/.../glossy-black...>

Yet, just as for the Koala, at Wallum trees necessary for the future survival of the species are proposed to be cut down. Not just the 76 Scribbly Gums with their hollows that can take hundreds of years to form, but also 38 mature She-oaks.

A non-breeding Glossy Black Cockatoo can process up to 580 She-oak cones per day. While a pair can process a total of 420,000 She-oak cones per year. Glossy Black Cockatoos are infamously picky eaters! They have preferred feeding trees, which they will return to year after year. Clarence Property proposes to plant new saplings in place of the old trees they're destroying. However, She-oaks take many years to produce cones, and form strength enough to support the weight of a Glossy Black. She-oak trees are dioecious - only the female tree will produce cones. This determination can't be made until a tree has fully matured, so Clarence Property cannot ensure these trees will become a viable food source. Clarence Property also proposes to install 50 nest boxes to offset the habitat loss for Glossy Black Cockatoos and other tree-dwellers. As food and habitat 'specialists', Glossy Black Cockatoos are known to be extremely selective against artificially-constructed replacement hollows - which will often degrade within 5-10 years. In fact, there are no recordings of successful artificial nest use across South-East Queensland or Far North-East NSW. For the Glossy Black Cockatoos that frequent Wallum, Clarence Property's proposed destruction of the 76 Scribbly Gums would prove devastating, as their horizontal branches are known roosting sites; their deeply-set hollows ideal for nesting. It takes 200 years for a Scribbly Gum to even begin to form a hollow, and more than 300 years for that hollow to become large enough to be suitable for a breeding pair of Glossy Black Cockatoos. These trees are simply irreplaceable.

It is not just species that live much of their life in trees that are threatened by this proposed development. Thriving communities of Wallum Sedge Frog and Wallum Froglet are found on-site at Wallum. These two unique species are both Vulnerable to Extinction - primarily due to habitat loss from coastal development - with the Wallum Sedge frog being listed as a Species of National Environmental Significance.

Alongside habitat destruction, the proximity of roads and houses will pose additional threats to Wallum's acid frogs, with noise and light pollution associated with stress and potential breeding behaviour disturbances.

Clarence Property's 'Habitat Management' measures have not considered the Wallum Sedge Frog, focusing only on the Wallum Froglet. Clarence Property has proposed to replace the destruction of Wallum's acid frog habitat with artificial 'Breeding Ponds' - the viability of which has been brought into serious question by leading ecologists. Both species of frog are highly sensitive to habitat modification, hydrology changes and pH levels - requiring the acidic, tannin-rich water that Wallum ecology uniquely provides. Clarence Property has failed to establish any precedent of breeding success in artificial conditions, the least of which should be a minimum of five years of proven breeding success, considering the Vulnerable status of these frogs.

The recent filing of a Section 10 shows very clearly that the historical Development Approval did not adequately address the Cultural Significance of the site to many Aboriginal clans and nations over a broad swathe of NSW who hold Totemic associations to several of the species whose survival is threatened should this development go ahead. Such communities would suffer direct and significant harm should the species with which they have significant Totemic associations (in particular the grey-headed flying fox, koala, black cockatoo, and wallum frog) suffer further decline. I reproduce below part of the announcement posted in the 'Save Wallum' Facebook page Wednesday May 29th:

<https://www.facebook.com/.../12832.../posts/356013107586661/>

Announcement: Bundjalung Nation Traditional Owners submit Section 10 for the Commonwealth protection of Wallum site Following positive meetings with the NSW State Government in Sydney earlier this month, an application under Section 10 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (ATSIHP Act) was submitted to Tanya Plibersek's office last night by lawyers on behalf of a group of Bundjalung Traditional Owners.

The group are requesting permanent protection of the Wallum site in Brunswick Heads NSW due to its cultural significance. Representatives from 7 clans of the Bundjalung Nation including Minyungbal, Widjabal Wiabul, Bandjalang, Githabul, Arakwal, Yaegl, and West Bundjalung and regional clans with associations into the site including Yugambeh and Mulanjali are included in the detailed application.

The Section 10 application details the significance of the Wallum site including Aboriginal cultural pathways, significant pre-colonial trees, significant ceremonial and cultural associations and specifically to protect totemic associations with threatened species that rely on the site including the grey-headed flying fox, koala, black cockatoo, and wallum frog, which hold significant spiritual meaning for many clans and nations.

Letitia Kelly shares, "the Wallum site is important because it is part of the three brother's story. Many mobs have pathways across the lands. It is important we stand for comprehensive cultural heritage information to be undertaken by all mobs affected by areas which are under threat. This site is particularly important because of pathways and cultural totemic associations within the site. It is crucial for the region and for many Aboriginal communities and societies, who are entitled to protect their totemic habitats for the practice of their culture" The greatest cost to our community would occur if this development goes ahead. The decimation of remnant coastal sclerophyll forest and wet heathland, traditional trackways, culturally modified trees and habitat for totemic species as well as endangered threatened and vulnerable species would be devastating for the entire community.

There has been too much loss of habitat, too much reduction in bio-diversity and too much decline in Australian native wildlife. All of this is recognised by the

NSW Government and is being addressed. The implementation of an urgent moratorium on all Zombie DA's would be a critical step in the right direction for the restoration of bio-diversity and re-establishment of flourishing populations of Endangered and Vulnerable species. On a personal note, it is virtually every day that one can read of accelerating climate change, melting of Arctic Ice, decline of already threatened species, devastating flooding, bushfires and landslides and other effects of unchecked development without regard to preservation of bio-diversity and eco-system integrity.

It is with sadness that I contemplate the prospect of many more such incidents of harm to our local NSW environment through the development associated with Zombie DA's.

It is unlikely that even a decade ago those granting such approvals could have foreseen the precipitous decline in species and the dramatic rise in extreme weather events associated with destruction of natural habitat and intact eco-systems.

Now, in 2024, in line with a strengthening desire to preserve, protect and enhance our bio-diversity and the habitats necessary for the continued survival of such species as the Koala, Glossy Black Cockatoo and Grey-headed Flying Fox I call on the Committee to let us as a community take that step in the right direction by immediately implementing a moratorium on all Zombie DA's.

Yours most sincerely,

Jennifer MacLean.

02/06/24

<https://www.parliament.nsw.gov.au/.../inquiry-details...>