

**Submission
No 187**

HISTORICAL DEVELOPMENT CONSENTS IN NSW

Name: Ms Svea Pitman
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Dear Inquiry members

I am making this brief submission as a member of the community group that has formed in 2023 to Save Wallum I'm Brunswick Heads, from an historically approved consent; Zombie DA.

There is a long history to this proposed development, and many issues in the planning process in the past, compliance and adherence to consent conditions and DGEARs recommendations. The Concept Plan submitted in 2011 as a Part 3a Major Project, under now repealed laws, was approved in 2013, as an exempt major project the DG assigned DGEARs to manage the impacts, many times refusing the proponents designs or approach. The also now repealed offset arrangements were not implemented even back in decades past, appropriately. Most threaded and endangered species, even known and reported back then, had no offsets - the ones that did, were unable to be met with land AQUISITION as should have occurred - historical documents on the NSW Planning portal for MP_05_0091 show that multiple properties were proposed to be purchased to offset the impacts to destroying Wallum Froglet habitat - yet none was suitable as there is so little (less than 1%) of coastal wallum health land left anywhere around here.

So artificial frog ponds were proposed - an attempt made to document 'damaged land' on the site that as so degraded the proponent would 'restore it' and create new habitat for these endangered acid frogs. The mis- information around the status of the 'degraded/ disturbed' land is astounding as it is a functioning wetland full of endangered frogs. Full of wedges and ferns. It's a pristine weed and toad free area of the site and should be preserved as it is - whereas the proposal as it is and was historically is to bulldoze this incredible habitat, to offset destroying the heathland habitat of the frogs, and build artificial frog ponds! Which will inevitably bring in cane toads to this than highly disturbed created environment. It's ludicrous.

It would never be approved today.

It should never have been approved in 2013.

The NRPP gave the final nail on the zombie coffin to this Concept Palm in 2023 approving the management plans and proposal instead if the Byron Council - as a previous 'major project' under now repealed SEPP, the council was bypassed, except for the recommendations of staff - strangely the Byron Council staff reports of the past, 10+ years ago, speak to the incredible biodiversity values on the site, wildlife corridors, flood zone and fire prone land, which was also all recommended to be rezoned in the draft LEP of 2012. The matter then deferred (DM) pending the concept plan and nearly 2 years that had passed since the DGEARs. At the last minute however the EA was submitted and response to the DGEARs and the Deferred matter was left under the prior zoning.

No historically approved DAs should be allowed to continue without current ecological and indigenous cultural assessments being undertaken. This must be changed in the laws of NSW so any historically approved consents are required to undergo reassessment, including comprehensive site surveys, when more than 5 years has lapsed.

The commencement laws and definitions need to change so this loop hole is closed. New assessments could be done when the project is not substantially completed. Ie if more than 50% of the development works for the entire

proposal are yet to be completed, new environmental impact assessment must be undertaken.

In the case of Wallum, 11 of the proposed Approx 145 blocks were built years ago, on what became a separate parcel of subdivided land. The current proposal is in no way linked except in the original concept plan, yet this means the current project is allowed to continue under the often flawed assessments and offsets of years gone past (1995-2009).

The multitude of reports and time that has past also impact any current understanding by decision makers to the long and convoluted attempts by the developer to minimise the reporting (or thus management) of the significant ecological values on site - for example koalas.

Multiple failures to meet current ecological requirements for management of threatened species such as the koala can be cited, yet the BSW planning department issued a cert34 a) last year signing off all impacts had been adequately addressed prior to Aug 2017 - this cannot logically be possible when for example the koala is now listed as endangered (2022) at both the state and federal levels, and koala habitat exists on the site, including 76 old growth Scribbly gums slated for the bulldozer. This is not acceptable. The cert34 a) should not have been issued on this fact alone.

I would suggest that all projects currently under certificate 34 a)'s under the Biodiversity Conservation Regulation (Savings and Provisional) 2017, be reassessed. Revoke these 34a certificates and ensure all these Zombie DAs are reassessed under current ecological and cultural impact standards. The requirement to survey predicted and known threatened species on site MUST be undertaken at the appropriate times as recommended in the BAM process. BDAR's must be undertaken and full consultation with the public for these historically approved consents.

In essence I believe all Zombie DAs in NSW must be stopped until they can be assessed under today's current laws.

In the case of Wallum in Brunswick Heads, I have no doubt the proposed development would not get approval. The fact the habitat mapping was flawed and the DG pointed this out even in 2008 and 2009c and yet somehow the 12ha of central site frog habitat was ignored is enough to stop the project. There are over 24 state and EPBC listed species on the site which abuts a Marine Sanctuary. It's an incredibly rare ecology and includes 3 separate Endangered Ecological Communities.

I sincerely hope this Inquiry is the formal mechanism the government already knows it needs, to change these laws once and for all and stop all historically approved DAs in NSW.

I would also like to add I feel it most fair and reasonable that a Moratorium should be enacted under a SEPP immediately to cause a pause for all NSW zombie DAs until the recommendations and findings from this inquiry are made.

Thank you

Svea Pitman

(Local mum and passionate advocate for Save Wallum)

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