

**Submission
No 241**

HISTORICAL DEVELOPMENT CONSENTS IN NSW

Organisation: Shoalhaven City Council

Date Received: 28 June 2024

Inquiry into Historical Development Consents in NSW

Introduction

Council welcomes the inquiry and the opportunity to make a submission. Council supports the aims of the inquiry, having identified concerns with historical development consents and experienced the impacts of these consents on Shoalhaven's communities, their values, and environmental values. Council requests the opportunity for representatives of Council to meet with the Committee to allow for further discussion of Council's submission and allow staff to answer any additional questions the Committee may have.

Shoalhaven's communities are becoming increasingly aware of historical consents and potential impacts and are increasing their advocacy efforts for the management of such consents, with representations to Council peaking when consents are reactivated. Like many coastal areas within a 2–3-hour drive from metropolitan centres, Shoalhaven has experienced a demographic change in recent years. Accompanying this change is a rapid evolution of community values and expectations.

A significant number of people who have recently migrated to Shoalhaven did so because they sought a sea-change/tree-change. Demographic data demonstrates migration to Shoalhaven increased during the pandemic in response to stricter lockdowns in cities and more flexible work from home arrangements. These relatively new community members have strong values about their new homes, places, and environment. They place significant value on local or neighbourhood character, biodiversity resources, and are aware of how development on areas at risk from natural hazards may affect their homes.

Shoalhaven is a very diverse place with many different and significant environmental values associated with forest, coastal, marine, and aquatic environments and the flora and fauna they support. These values also present risks associated with natural hazards. Shoalhaven's communities, infrastructure, and natural environment has been affected by bushfires (2019/2020) and 11 different flood events over the last 5-years.

Council runs a program of risk identification and management work with a focus on flood risk and coastal hazards. Council also collaborates with the NSW Rural Fire Service to update bushfire risk maps every 5-years. This continual and constant update ensures contemporary identification of environmental risks, risks not known about 5-, 10-, or 20-years ago when historical consents were issued.

Shoalhaven's built environment is diverse, consisting of 49 towns and villages across the Nowra-Bomaderry Regional Centre, major urban areas in Milton-Ulladulla, Huskisson-Vincentia, Jervis Bay-St Georges Basin, Culburra Beach, and Sussex Inlet. Other unique places include the historic towns of Berry, Kangaroo Valley and Milton and several smaller villages and settlements spread along the coast. Each place has

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a different local or neighbourhood character valued by its communities. Council is working to meet the expectations that these values will be confirmed and enhanced with new planning and development controls. Historic development consents would not have been considered against these values or proposed controls.

Council recently examined the opportunities available for it to contribute to the management of historical consents with a focus on creating a public register of relevant information. However, it was found potential solutions were limited by the current legislation, regulations, legal considerations, and the logistics of accessing historical records. The Committee's proposed consideration of policy and legal solutions and the benefits and costs to taxpayers of controlling this matter is therefore strongly supported.

The scale and scope of planning reform recently completed and underway adds a layer of complexity to managing historic development consents. While there are a broad range of issues generated by the number of times the legislation has been amended and the vast array and type of supporting documents (such as directions, circulars, state environmental planning policies, guidance notes etc.), there has been an evolution of consent commencement requirements, case law, and legal considerations.

Acknowledging the overhaul and renewal of the planning legislation and system is outside the scope of this inquiry, such renewal provides a significant opportunity to not only manage historic development consents but also improve on the practice and limited success of continual reform.

***Recommendation 1:** The Committee organise a series of hearings across NSW and invite those organisations and individuals who made a submission to the inquiry to address the Committee and answer any additional questions the committee may have.*

***Recommendation 2:** The NSW Government prepare a new planning system to provide contemporary and coordinated legislation and an associated framework of supporting documents. The new legislation should address the impacts and management of historic consents.*

About Shoalhaven and Shoalhaven's Communities

Shoalhaven, located on the south coast of New South Wales, is bordered by mountains and coastal plains. It contains substantial areas of National Parks, State Forests, bushland, beaches and lakes. It also contains many different towns and villages, including the regional centres of Nowra and Ulladulla.

Shoalhaven's natural environment and scenic landscapes include a range of rainforests, woodlands, rocky terrain, coastal plains, farmland and floodplains. Its coast is diverse, with major estuaries, many coastal lakes, beaches, extensive coastal

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dune systems, and sandstone headlands and bluffs. Outstanding natural amenity is a strong attractor for both residents and tourists.

Shoalhaven is the largest coastal area close to the growing Sydney Metropolitan Region. It is also close to Canberra. Shoalhaven has road and rail connections to Sydney and Wollongong. It is also connected to Canberra by road. Major connections include the north- south connection provided by the Princes Highway which continues to be upgraded and journey times shortened, westerly connections to the Hume Highway, and the South Coast Railway Line. This central geographic location and the improving access to these key centres means the City will continue to be a focus for growth and changing community values into the future.

Shoalhaven's urban areas include the regional centre of Nowra-Bomaderry, and major urban areas of Milton-Ulladulla, Huskisson-Vincentia, Jervis Bay-St Georges Basin, Culburra Beach, and Sussex Inlet. The historic towns of Berry and Kangaroo Valley are located inland, and Shoalhaven's smaller towns, villages and settlements are spread along the coast. As a result of its environment and geography, Shoalhaven's current population are concentrated in the towns and settlements along the coast.

Shoalhaven's Aboriginal communities have a long, rich spiritual and cultural connection to this land, to the natural landscapes, sacred objects, and stories that are embedded throughout the region. Their continued work towards maintaining and restoring these enduring cultural traditions, empowering local Aboriginal communities, and strengthening connections to Country is highly valued and respected. Shoalhaven also shares in a more recent European heritage, which dates back as recently as 1822 when land was first settled at the mouth of the Shoalhaven River.

Shoalhaven's economy is driven by the Defence and Manufacturing, Health and Social Services sectors. Tourism and Retail sectors also play important roles, with Shoalhaven the most visited location in New South Wales outside of Sydney.

Examples of Historic Development Consents in Shoalhaven

Many community members have voiced concerns over several significant historic consents. These were approved many years, if not decades ago, under previous legislation. Community concerns relate to the potential impacts of the developments on local communities, neighbourhood character, and the natural environment. The following list summarises a selection of examples of historic consents in Shoalhaven. Detailed information about each example is attached.

179-lot staged residential subdivision, Lot 172 Cunjurong Point Road, Manyana

This example demonstrates the value communities place on vegetated sites and potential biodiversity resources over a period of 18-years. Community concerns are focussed on the environmental impacts of the subdivision, particularly the extensive clearing of vegetation required to facilitate the development. These concerns were

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elevated following the 2019-20 bushfires as the vegetation on the site was not destroyed, unlike much of the surrounding bushland, and is now considered more valuable.

This example also demonstrates significant community support to secure the site in public ownership to safeguard the vegetation and avoid future development proposals.

This subdivision was lodged and approved under the former, and now repealed, Part 3A Major Project planning framework. The application was lodged in 2006 and approved in 2008. The assessment and determination of this application was managed by the State Government, with information available on its website. No information is available on community submissions on the application.

Council understands the consent is secured and deemed to have commenced through the undertaking of engineering survey work. The early stages of work to create asset protection zones for future development were approved in 2019 with work due to start in 2020. The community raised concerns with both Council and the NSW Government about the extent of vegetation loss and the importance of retaining the bushland as habitat for threatened species.

Council has supported the community's request to the NSW Government seeking a moratorium on the development of the site. Council has made its own representations to the NSW Government seeking further assessment and validation of any threatened species and for it to consider the purchase the site. The matter has since been referred to the Federal Department of Environment to determine if an assessment is required under the *Environmental Protection and Biodiversity Conservation Act (EPBC) 1999*. A decision is imminent.

In addition to the submissions made on the development applications and representations to Council and the NSW Government, community concern has been raised in community-led campaign to increase community awareness and submissions, the local press, and social media. A local community group continues awareness raising and advocacy activity.

32-unit residential flat building, 4 Murdoch Street, Huskisson

This example demonstrates changing community values about local character and an increasing awareness about environmental values over a 12-year span. The original consent for this 3-storey building was issued in 2011 and received nine community objections. Approved modifications to the consent in 2012 and 2018 received no community interest.

The site was marketed for sale and sold in 2021, with material identifying the development consent. This alerted the community about potential development

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outcomes on the site. A further modification proposed in 2022, received 71 submissions raising concerns about:

- Impacts on local character and amenity from the height, scale, and density of the development,
- Impacts on the local road network from traffic associated with the development, and
- Environmental impacts, including acid sulfate soils, habitat loss, flood risk, and impacts on adjoining biodiversity resources.

The Land and Environment Court issued approval to the modified consent in 2023.

In addition to the submissions made on the development applications, community concern has been raised in community-led information events, campaigns to increase community submissions, the local press, and social media. A local community group continues awareness raising and advocacy activity.

Residential Subdivision, Little Forest

This example demonstrates continued community concern over a period of about 22 years about how a consent avoids contemporary requirements to retain and manage vegetation and control soil erosion. The consent for this rural-residential subdivision was issued in 2001, substantially commenced in 2006, and reactivated in 2022.

13 submissions were received from adjoining residents for both the original application and the modification. Key concerns included:

- Impacts from vegetation clearing, including soil erosion, pollution of watercourse, and loss of habitat.
- Impacts to rural character and amenity, resulting from clearing and the density of the proposal.
- Concerns regarding land-use conflict, resulting from adjoining rural and agricultural uses.
- Pollution of waterways from effluent run-off.
- Degradation of the existing road, resulting from increased traffic on Little Forest Road and Little Valley Way.
- Safety concerns regarding the existing Princes Highway-Little Forest Road intersection.

Reactivation of the consent occurred in 2022 with the start of work to clear the site. Council was contacted by several residents with continued concerns about:

- Impacts associated with the clearing of vegetation,
- Soil erosion and sediment control issues; and

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- Degradation of the road.

In addition to the submissions made on the development applications, communities have raised their concerns directly with elected Councillors. A local community group continues awareness raising and advocacy activity.

Managing Historic Consents

The Terms of Reference for the inquiry and the supporting material already demonstrate an understanding of the impacts of historic consents. Council notes the concerns around historic consents occur because they:

- Are “protected” by current planning legislation and do not need to address the current land use planning framework or manage impacts on environmental or community values identified since the consent was issued.
- Often fail to meet current land use planning requirements as the scale and scope of change to planning legislation, regulations, and policy has provided a quickly evolving framework against which consents are compared. The considerations and case law published by the Land and Environment Court about the commencement of a consent exacerbates this matter.
- Do not consider current environmental values or manage known environmental risks such as increased biodiversity significance and newly identified flood or bushfire risk.
- Forgo consideration of current community values, such as local or neighbourhood character, recently identified heritage items and places, or other site-specific amenity concerns (noise, traffic etc).

There are impacts, barriers, and considerations associated with managing historic consents. These include community awareness and confusion, the difficulty of identifying historic consents, the resources necessary to manage them, and a range of legal considerations.

Community Awareness and Confusion

The initial impacts of historic consents on community values and expectations starts with awareness. Communities are largely unaware of the existence of such consents until they are reactivated due to the length of time that has elapsed since they were initially determined. It is often not until the consent is reinitiated in some way (for example, through the lodgement of a modification application or construction certificate) that the community, and often times Councillors and staff, become aware of the development approval and the possibility of it having commenced. Significant changes in communities, including new members, exacerbate this matter.

The lack of community awareness is largely due to a lack of public information about development consents, the planning and development controls in place when the

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consents were issued, and the information considered by the consent authority when it made its decision.

Communities are also confused about historic consents and the use of the label, or the zombie developments label, to oppose contentious:

- Development consents, including recent consents,
- State Significant development approvals,
- Land and Environment Court approvals, and
- Strategic land-use planning decisions (rezonings to implement a land use planning strategy or a proponent-initiated planning proposal).

***Recommendation 3:** The NSW Government develop and promote clear definitions of the various consent processes to enable communities to better participate in land use planning decisions.*

***Recommendation 4:** The NSW Government create and promote a public register of historic consents to inform the community about sites which benefit from approvals to provide greater transparency about approval mechanisms, timing, past decisions, and historic planning controls.*

***Recommendation 5:** The NSW Government prepare a community education program about any potential register, the development approval and commencement process, and the current limitations on adjusting or revoking historic consents.*

Identifying Historic Development Consents

It is difficult to determine the number and location of development consents which the applicants or owners may have secured over time and prevented from lapsing. This is due to the complex layers of:

- Evolving commencement requirements or “tests”,
- Case law and legal considerations,
- The logistics of reviewing a significant number of paper-based and digital records spanning several decades,
- Instances where landowners/developers have undertaken preparatory works without confirming such work with Council, and
- Legal risks for attempts to confirm or deny a consent has started.

Apart from periodic changes to legislation and evolving case law, the nature of Council's record keeping has also changed significantly over time. Council's development records date back over 80 years to the commencement of Shoalhaven's first principal planning instrument in 1964. While all development applications are now lodged and recorded electronically, they did not become completely digital until 2015-

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2016. Prior to this, development application files were hybrid, being partially electronic and partially hardcopy. Older files, particularly those that pre-date the mid-2000s, are only available as hardcopy files and are, in most cases, stored in archival facilities.

Noting that Council's development records date back to the 1960s, there are likely to be tens of thousands of files stored in Council's archives that, to review in detail, would be an extremely resource-intensive undertaking.

A further consideration is Council's historic (and now ceased) practice of providing written advice to applicants to confirm their development was deemed 'substantially' or 'physically commenced'. This advice was provided as a letter to applicants, with a hardcopy physically placed on the file. Contemporary legal advice cautions Council from confirming or denying whether 'substantial' or 'physical commencement' has occurred for any development approval. This includes providing information to consent beneficiaries, potential purchasers, or members of the public.

The current practice places the onus on the consent beneficiary (for example, applicants, landowners, developers, and prospective purchasers) to undertake their own due diligence to determine whether a consent is active. Sufficient evidence would then need to be provided to Council or certifier in any application to progress the development.

There are also likely to be many instances where landowners or developers have undertaken preparatory works (such as site surveys or geotechnical studies) prior to the lapse date, without having submitted this information to Council. In the absence of such evidence, it would, therefore, be very difficult to determine the number and location of historic approvals that may be 'activated' across the LGA.

***Recommendation 6:** The NSW Government identify a process and supply the resources and funding required for Councils to identify historic development consents. For example, the creation of a public register of historic consents or a process requiring Owners of historic consents to demonstrate consents have been activated through clear and consistent measures (such as construction certificates and practical works).*

Managing Historic Development Consents

There are several opportunities to manage historic development consents ranging from updated legal definitions and commencement tests through to various processes for undertaking contemporary assessments and reviewing, amending, and even revoking consents.

The review and adjustment or revoking of a consent where there is an identified risk to life is critical. This would improve the current practice of just advising developers of contemporary considerations and allowing them to address identified risks.

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Considerations include compensation requirements and safeguarding legal contest against application of contemporary controls.

The purchase of a site and securing its future through public ownership is the ultimate solution to managing highly constrained or controversial sites. This also helps to avoid continued and repeated sale of sites and promotion of alternative development proposals. However, the challenges of retrospective action and monetary compensation is ever present.

Recommendation 7: *The NSW Government improve the definition of substantial commencement using timeframes or qualified values such as a percentage of the total dollar value of the consent invested in the commencement of the consent.*

Recommendation 8: *The Committee consider the challenges and implications of the retrospective application of new definitions, requirements, or processes to historic consents noting the risk of legal action, complex case law, the industry's investment decisions, and the need for monetary compensation.*

Recommendation 9: *The NSW Government introduce a requirement and process for the contemporary assessment of historic consents when reactivated to identify any necessary adjustments to respond to contemporary values and risks.*

Recommendation 10: *The NSW Government commence a process to review and adjust or revoke consents older than an identified period or where there has been substantial change to legislation or site values and constraints. For example, an amnesty-based process requiring:*

- i. Reassessing historic consents (over 10 years of age since issued, but argued to be commenced) to contemporary standards and issued a revised consent or refused consent.*
- ii. Historic consents to be surrendered because of the difficulty in reactivating the consent (traffic, heritage, noise etc), or the significance of the risk imposed to the development (e.g. flood or bush fire).*

Recommendation 11: *The NSW Government fund, prepare, and implement an acquisition or compensation scheme for revised, revoked, or surrendered consents following any contemporary review of historic consents.*

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Supporting & Resourcing the Management of Historic Development Consents

Noting councils are responsible for managing most development consents, any additional measures, or requirements to identify and manage historic consents would rest with councils. This would significantly impact resourcing of core development assessment and compliance activities, a particularly important consideration noting the NSW Government's recent setting of housing targets and associated pressure to increase approval times for housing proposals.

The ability of councils to review and revoke historic development consents is unclear. The current provisions in the *Environmental Planning and Assessment Act 1979* (4.57 *Revocation or modification of development consent*) suggest this can only be done alongside an amending local environmental planning instrument.

Attempts to manage, review, or revoke historic development consents will expose councils to expensive and protracted legal considerations and court action.

The cost of options such as potential site buy-backs to remove historic consents or the compensation of applicants and owners if consents are revoked or adjusted is another consideration.

Recommendation 12: *The NSW Government supply the resources and funding to implement any new measures requiring councils to manage historic development consents. For example, Councils would require resources to review and adjust historic consents and undertake the contemporary assessment of consents when they are reactivated.*

Recommendation 13: *The NSW Government consider and implement a simple and robust process and provide the legal protections necessary for councils to review and revoke historic development consents.*

Managing new Consents

The implementation of measures to manage future consents to avoid the issues examined in this submission should be a simpler and easier exercise. Options include updated commencement definitions, requirements, and timeframes.

Recommendation 14: *The NSW Government implement new measures to manage future consents, such as well-defined commencement definitions, requirements and a process requiring developers to demonstrate commencement within a specified period. If demonstration does not occur, the consent is deemed to be lapsed. Such a process needs to safeguard councils from legal action.*

Attachment – Examples of Historic Development Consents in Shoalhaven

Lot 172 Cunjurong Point Road, Manyana: 179 Lot Residential Subdivision

This 20-hectare site is bound by existing low density residential development in the coastal village of Manyana to the east and south, and heavily vegetated land to the west (Crown Land) and north (privately owned). The site is currently zoned R2 Low Density Residential under the *Shoalhaven Local Environmental Plan (SLEP) 2014* and has been zoned for residential development since 1964.



Community concerns around this historic consent are focussed on the environmental impacts of the subdivision, particularly the extensive clearing of vegetation required to facilitate the development.

Development Approval History

Development application SF9787 was lodged on 24/1/2006 as a Part 3A Major Project, seeking approval for a 179-lot staged residential subdivision. The application was assessed by the State Government and approved by the (then) Minister for Planning on 8/7/2008. Copies of the approval documents are available for viewing online:

- Development consent: [\(link\)](#)
- Approved plans: [\(link\)](#)

As the assessment and determination of this application was managed by the State Government, Council is not privy to the details of the public submissions that were

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made on original application. Further information about this project is available on the NSW Government's Major Project website ([link](#)). The consent is understood to be secured and deemed physically commenced through the undertaking of engineering survey work.

Construction Certificates (CC) for Stages 1-6 of the subdivision were lodged with Council on 10/8/2018, with the CC for Stage 1 being approved on 19/11/2019. The CC enabled development to commence for Stage 1 only, and included asset protection zones required to protect that part of the development from bushfire attack. Stage 1 works required vegetation clearing of approximately 20% of the site, which was scheduled to occur in May 2020.

It is well documented that the Shoalhaven region was heavily affected by the Black Summer bushfire season, which occurred during December 2019-January 2020. While the majority of bushland around Manyana and surrounding villages suffered a devastating loss of vegetation, the subject site remained unburnt.

With clearing works scheduled to commence, local community members raised concerns with both Council and the NSW Government about the extent of vegetation loss and the importance of retaining the 20ha of unburnt, healthy bushland as habitat for threatened species.

On 12 May 2020, Council resolved (in part) to:

3. *Support the Manyana community in its ongoing representations to the State Government seeking a moratorium on the Manyana Estate given the current fragile state of the land post bushfire.*
4. *Make representations to the State Government on behalf of the community requesting further verification of threatened species distribution in the Manyana Estate in order to avoid the destruction of any threatened species on the site that contravenes current law.*
5. *Request that the NSW State Government consider purchase of the land for conservation.*

During Council's subsequent dialogue with the NSW Government, the matter was separately referred to the Federal Department of Environment as a proposed action under the *Environmental Protection and Biodiversity Conservation Act (EPBC) 1999*. On 18 June 2021, it was deemed to be a controlled action by the Federal Environment Minister, requiring an assessment under the *EPBC Act*.

At the time of writing, it is understood that a decision from the Federal Environment Minister is imminent. It should also be noted that the CC applications for Stages 2-6 have been withdrawn pending the outcome of this determination.

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4 Murdoch Street, Huskisson: 32-Unit Residential Apartment Building

This 1.2-hectare site is bound to the north by an existing residential flat building, to the east by the partially formed Murdoch Street road reserve, and to the south and west by Jervis Bay National Park.



The site is zoned MU1 Mixed Use by *Shoalhaven Local Environmental Plan 2014* which replaced the previous 3(g) Business (Development Area) zone in the earlier 1985 local environmental planning instrument. An area-specific Development Control Plan (DCP) applies to the site to guide development outcomes in this (and three other) MU1 zoned precincts in Huskisson. A previous version of this DCP came into effect in 2001 and applied at the time of the initial development consent.

Community concerns around this historic consent represent both a change in community values since the original consent issued in 2011 and increasing concern and/or awareness about environmental impacts.

Development Approval History

The initial development application (DA10/1377) lodged with Council in 2010 sought consent to construct a 3-Storey Residential Flat Building with 32 apartments, basement car parking for 64 vehicles, and a swimming pool. This application was approved in 2011. Approval documents are available to view online: Development Consent ([link](#)) and Approved Plans: Site 1 ([link](#)), Site 2 ([link](#)), Basement ([link](#)), Elevations 1 ([link](#)), Elevations 2 ([link](#)).

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Submissions were received from nine community members/groups during the assessment of the initial application.

Two modification applications were lodged with Council. One in 2012 (DS12/1101) seeking to modify the consent conditions relating to roadworks. This application was approved by Council in 2012 ([link](#)). The second in 2018 seeking to modify the building design. No submissions were received during the assessment of either application. Approval documents are available online: Modified consent: ([link](#)) and Approved plans: Site Plan ([link](#)), Part Site Plan ([link](#)), Basement Plan ([link](#)), East Wing Elevations & Sections ([link](#)), West Wing Elevations & Sections ([link](#)).

Following approval of the above applications, the subject site was placed on the market. The development approval was incorporated into the advertising material, raising concerns among some community members. The site was sold in October 2020 and title transferred in January 2021.

In 2022, the new owners lodged a modification application (DS22/1032) seeking to modify the external building footprint, internal configuration, and car parking requirements. Unlike earlier applications, this application attracted a significant amount of community interest and concern, with 71 public submissions received during Council's assessment. All submissions objected to the development, both to the original approval from 2011 and also to the proposed modifications. Key issues raised in these submissions included concerns about:

- Impacts on local character and amenity, including building heights, scale and density, car parking and traffic.
- Environmental impacts, in particular, coastal planning, proximity to acid sulfate soils, flooding, habitat loss, potential impacts on the adjoining Moona Moona Creek ecosystem.

The application was appealed in the NSW Land & Environment Court prior to Council's determination. The application was approved by the Court on 15 November 2023. Copies of the approval documents are available for viewing online:

- LEC Judgment and modified consent: ([link](#))
- Approved plans: ([link](#))

At the time of writing, construction work is yet to commence on the site; however, some land clearing has occurred. There is continued community interest in this development and the broader environmental values of the site.

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Lot 3, Little Valley Way, Little Forest: Residential Subdivision

This approximate 21-hectare site is located within a rural setting north-west of Milton. Prior to site being cleared at the end of 2022, it was heavily vegetated with native forest species, including Stringybark-Ironbark, Stringybark-bloodwood Forest, Peppermint-Stringybark Forest, and Blue Gum Tall Forest.



It is zoned RU4 Primary Production Small Lot and has a minimum lot size for subdivision standard of 1-hectare in *Shoalhaven Local Environmental Plan 2014*. The site was previously zoned rural 1(c) under an earlier planning instrument.

Community concerns around this historic consent represent increasing concerns and awareness about environmental impacts, specifically the impacts of clearing vegetation including soil erosion and sediment control. The commencement and reactivation of this consent were approximately 15-years apart.

Development Approval History

An application was lodged with Council in 2000 for a rural lifestyle subdivision of 12-lots. After a series of considerations, consent for a 5-lot subdivision was issued in 2001. A modification for a further lot was lodged in 2002 but did not progress.

13 submissions were received from adjoining residents for both the original application and the modification. Key concerns raised in the submissions included:

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- Impacts from vegetation clearing, including soil erosion, pollution of watercourse, and loss of habitat.
- Impacts to rural character and amenity, resulting from clearing and the density of the proposal.
- Concerns regarding land-use conflict, resulting from adjoining rural and agricultural uses.
- Pollution of waterways from effluent run-off.
- Degradation of the existing road, resulting from increased traffic on Little Forest Road and Little Valley Way.
- Safety concerns regarding the existing Princes Highway-Little Forest Road intersection.

The following events occurred after the issue of development consent:

- **June 2006:** On application, Council approved a Subdivision Construction Certificate to construct a culvert.
- **July 2006:** Council issued a letter confirming the consent had been secured as the installation of the culvert constituted substantial commencement.
- **July 2021:** An application for a Subdivision Construction Certificate to undertake civil works and construction of the access road was lodged.
- **February 2022:** Council approved the Subdivision Certificate for civil works and construction of the access road.

Commencement of Work

Following the February 2022 approval, works commenced and the site was cleared. Council was contacted by several residents with concerns regarding:

- Impacts associated with the clearing of vegetation,
- Soil erosion and sediment control issues; and
- Degradation of the road.

Noting development consent was secured in 2006, Council had limited ability to legally impose further requirements to manage clearing and associated impacts. Council did discuss the following initiatives with the developer:

1. Undertaking a pre-clearing fauna survey of potential tree hollows.
2. Clearing of the vegetation with a wildlife handler on site.