

**Submission  
No 25**

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS  
OF CLIMATE CHANGE ON THE ENVIRONMENT AND  
COMMUNITIES**

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**Date Received:** 26 October 2023

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**SUBMISSION TO THE PORTFOLIO COMMITTEE 7 – PLANNING AND ENVIRONMENT of the NSW Parliament Legislative Council - Inquiry into the planning system and the impacts of climate change on the environment and communities**

Thank you for this enquiry, it is long overdue.

**Terms of Reference applicable to this submission:** (a) (i) and (iii), (b) (i) to (iv) *please note there are two (iii) listed on your webpage when one should be (iv), and (c).*

**INTRODUCTION**

As long ago as 1949, Aldo Leopold's "A Sand County Almanac" was published. In the Foreword which he wrote on 4<sup>th</sup> March 1948:

*"There are some who can live without wild things, and some who cannot".*

*Like winds and sunsets, wild things were taken for granted until progress began to do away with them."*

*"Now we face a question whether a still higher 'standard of living' is worth its cost in things natural, wild and free."*

*"We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect."*

*"Perhaps such a shift of values can be achieved by reappraising things unnatural, tame and confined in terms of things natural, wild and free."*

**ARE WE THERE YET ?**



**NSW Planning Systems, past and present, have failed and are failing miserably. All the planning systems are the first point of failure.**

**We are supposed to be stewards over the land, not the destroyers.**

**Common sense exited the planning system decades ago.**

Evidence of destruction is all over NSW and Australia, and for all the world to see. In a few short years, if we don't change and reign in planning systems, the entire NSW coastline will be one continuous housing estate all the way to the northern end of the Sunshine Coast in Qld, with no coastal ecosystems left and **no bird song**.

*This wildflower meadow, is about to be destroyed by a Developer, unless stopped, thanks to NSW planning systems, in the only Wallum Heathland-Ephemeral Wetland left in Brunswick Heads, with only 1% left in the Byron Shire. The Developer's insensitivity to what he is about to do is staggering. The Developer has described this habitat at 15 Torakina Road, Bayside Brunswick Heads as a "paddock". The NRPP's unjustifiable approval is also based on outdated environmental laws and outdated documentation. The "luxury homes" are **not even affordable housing**.*



Environmental laws have been so compromised, thwarted and weakened by planning systems, that the former can no longer be relied upon to do their job. The effect on the environment is all too obvious.

Coastal and inland ecosystems are being systematically, and exponentially, degraded, disturbed, divided, disrupted, denuded and destroyed by planning systems, and weakened environmental laws - **The Six Big Don'ts**.

Planning systems inherently **promote** the Six Big Don'ts. As a result, Developers eagerly hop on board the Six Big Don'ts and exploit these ineffective planning systems, and effectively and "legally" destroy our environment.

We only need to look at the effects of the coastal Queensland demolition to see how bad it can get. Whole ecological communities wiped out. Wildlife whose range was once from the hinterland to the coast for breeding and feeding, are now confined to the former with their numbers decreasing. Particular food sources on the coast are not available in the hinterland. **Wildlife don't stand still – they need ranges to survive**. When you cut into their ranges with the Six Big Don'ts their numbers decrease. House sizes too big for the very small lot sizes leaving nowhere for gardens for wildlife.

**Inept and inane biodiversity/environmental offsets being used to justify unjustifiable destruction when their ineffectiveness is well documented.**

And here we are. Communities are fighting to protect what's left of the natural world with very little to rely on from environmental laws purporting to protect the environment. And off we go to court, if we can raise the money to do so.

A case study, and photos, of a recent inappropriate DA Approval will be interspersed in this submission to show just how planning systems have failed. Your imagination of what this and other wild places are like, will never do them justice, you have to see them for yourselves. The Developer of the site has described the land as nothing more than a paddock, however from the photos you will see this is anything but the case. Planning Panels and Councils spend just a few hours at these habitats in justification for "site inspections", without any community ecologists giving valid reasons not to destroy. **Justice** in all forms is what is required for the environment now by shaking up and changing the planning systems and strengthening environment laws, so this destruction cannot continue.

## Enough is enough, don't we think

### (1) Planning systems vs environment protection

All the massive amounts of weak, inconsistent and contradictory documentation from 2006 to 2023 that this submitter has read, which supported the Development Application and Approval of the Wallum Heath-Ephemeral Wetland in Bayside Brunswick Heads, to justify this massive housing estate, **is a feeble attempt to justify the unjustifiable.** Not one environmental/ecological report was found which spoke in defence of the habitat in order to argue for its preservation ad infinitum; and there should have been – this submission will do just that. The whole process is insane, and occurring in nonsensical repetition around the State.

Who on earth purchases significant habitats in and surrounded by major ecosystems only to destroy them with permission of the NSW Department of Planning through flawed planning systems and weakened environmental laws. Communities around the State are left wondering is this corruption. Who on earth thinks that communities are going to put up with this.

It is self-evident how planning systems have put us into the dire environmental situation we are in, not just in NSW but in all of Australia. It was bad enough when there were no planning laws nor environmental laws, and now that we have them, nothing has changed on the ground resulting in environment laws being reduced to nothing more than **lip service.**

Inappropriate Development Application Approvals have set dangerous precedents, and Developers reap the benefits while communities and their environments suffer. Developers are now preying on agricultural land.

**The cumulative impact of this can only be described as catastrophic.**



*Rainbow Bee-eaters are about to lose their habitat and have their ground-level nesting sites covered with a massive housing development – Wallum Habitat, Brunswick Heads, October 2023.*



*One of the Rainbow bee-eater's ground-level nesting sites*



Wallum Heathland-Ephemeral Wetland, Brunswick Heads about to be destroyed courtesy of a DA Approval by the Northern Regional Planning Panel. The most **alarming aspect** of this inappropriate approval by the NRPP is that the Development Application was required to be **referred straight to the Australian Government for assessment under the EPBC Act 1999 due to the habitat being Core Koala Habita but it wasn't**. This Critical Habitat is a diverse ecosystem in its

own right, regionally significant, State significant and a **Matter of National Environmental Significance**. It contains many **Threatened Species**. Was this Approval



corrupt, incompetent, the result of extremely poor planning systems, or all three? **The attempted annihilation** of this significant Critical Habitat dates back through the years 1988-2023. Several previous DA attempts were knocked back. For decades our local community ecologists have been fighting for this habitat. The Concept Plan was approved on 9<sup>th</sup> July 2013 by unqualified staff. Another DA dated 7<sup>th</sup> September 2021 together with the Concept Plan Approval 2013 (modified slightly via virtue signalling and greenwashing) enabled the current Developer to gain **approval on 16<sup>th</sup> May 2023 by the poncy NRPP outside their jurisdiction, without adequate community consultations, without any comprehensive flora & fauna lists, a dodgy VMP from 2021 which also omitted most of the Threatened Species, idiotic offsets, using outdated Environment laws, and an outdated Environmental Impact Assessment dated 2011, and none for the adjoining ecosystems. And no “fact checking” by anyone higher up the planning food chain. This “Zombie development”, as this obviously is, is a massive understatement.** Even if this wasn't a Zombie development, it still should never have been approved by any Council, State or Federal agency. **And this is the State's planning system!**

*Planning systems weaken environment laws, ensuring:*

*This .....to this*



### **Matters NOT given due weight under planning systems**

What about the other species in the Brunswick Heads Wallum Habitat and State-wide, both non-threatened and those on the Threatened Species List whose habitats will be the subject of **The Six Big Don'ts**? The lists of Threatened Species, which are usually incomplete in Developer's Vegetation Management Plans, are mentioned only for post-destruction "reconstruction" of habitats; where are the comprehensive listings for ALL fauna and flora that will be affected? (*more on VMPs later in this submission*).

**From the NSW Department of Planning and Environment's webpage:**

***"All native fauna are protected by the Biodiversity Conservation Act 2016 (except the Dingo), with hundreds listed as threatened. The Department of Planning and Environment works to protect these species and their habitats."***

REALLY??? Note: "and their habitats" -so why isn't this being deployed in Brunswick Heads and State-wide?

Conflictingly and inconsistently, from this same webpage, it is clear that habitats are not protected for our native fauna and flora except for: *"All plants and animals living in NSW national parks and reserves are legally protected under the National Parks and Wildlife Act 1974"*. No "habitats" mentioned.



What's the point of protecting fauna and flora in NSW when all the planning and environment laws conflict, are inconsistent and compromised, neither effectively protecting them or their habitats wherever they may occur in our State.

Example:

**Long-nosed Potoroo (northern)**, listed as Vulnerable to Extinction under both the EPBC Act 1999 effective from 16<sup>th</sup> July 2000 and the NSW Biodiversity Conservation Act 2016. Soon it will be elevated to Endangered or Critically Endangered because it is already in danger of becoming extinct on the northern NSW coastal plain in habitats such as Wallum Heathland in Brunswick Heads and across its range (*see article ABC online 28.6.2018 and the scientific journal Australian Zoologist*). Without night time surveying, Potoroos are evidenced by trails and diggings throughout their habitats during daylight hours.

**The Long-nosed Potoroo in the Wallum habitat, didn't even rate a mention in the Developer's Vegetation Management Plan "Threatened Species" list for the Wallum Heathland in Brunswick Heads, despite this:**

Despite a "Recovery Plan being required, included on the Commenced List (1.11.2009)", "There is no adopted or made Recovery Plan for this species". One of the recognised **threats** to these marsupials is "**residential development**" (source: [http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon\\_id=66645](http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=66645)).

"Conservation Actions – Conservation & Management priorities – Habitat loss, disturbance and degradation: implement policies and processes to **avoid further clearing or fragmentation of habitat** around known Long-nosed Potoroo populations." (source: <https://www.environment.gov.au/biodiversity/threatened/species/pubs/66645-conservation-advice-31102019.pdf>)

To add insult to injury in the upcoming destruction of Potoroo habitat:

The NSW Office of Environment & Heritage (profile last updated 11 August 2023) under "Activities to assist this species" states categorically "**All further loss of habitat will need to be **prevented** if the population is to persist.**"

## OUR PLANNING SYSTEMS WILFULLY DISREGARD ENVIRONMENT LAWS thereby weakening and extinguishing them



*Cuteness alert – Long-nosed Potoroo*

And what about all the other species in this Wallum habitat, and other mammal species State-wide, who have been omitted or dismissed under these planning systems? Examples: all the gliders and possum species, echidnas, wallaby and kangaroo species, native mice and rats, bandicoots, bilbies, quoll species, etc.

### **A list of some of the Threatened Species fauna in this Wallum habitat, with only seven of them making it onto the Developer’s Vegetation Management Plan under “Threatened Species”:**

Long nosed Potoroo – Vulnerable to extinction (should be Endangered)

The Grey-headed flying fox – Vulnerable to extinction under EPBC Act 1999, NSW Threatened Species Conservation Act 1995 and IUCN Red List of Threatened Species. Hoary wattled bat – Vulnerable to extinction.

Brush-tailed phascogale – Vulnerable to extinction

Common planigale – Vulnerable to extinction

New Holland mouse – Vulnerable EPBC Act.

Eastern pygmy possum – Vulnerable to extinction.

Beach stone-curlew – Critically Endangered.

Bush stone-curlew - Endangered

Red-tailed black cockatoo coastal sub-species – Critically Endangered

Glossy black cockatoo\*\* – Vulnerable to extinction (should be Endangered)

Brown tree-creeper – Vulnerable to extinction

Eastern osprey – Vulnerable to extinction

White-bellied sea-eagle – Vulnerable to extinction

Swift parrot – Vulnerable to extinction (should be Critically Endangered)

Wallum froglet -Vulnerable to extinction \*\*, Wallum Sedge frog – Vulnerable to extinction \*\*

\*\*ineffective and ludicrous offsets deployed in DA Approval.

**(Red goshawk** – once found down the east coast of NSW as far south as Sydney – **now functionally extinct in Northern NSW** (source: Australian Wildlife Conservancy). **Critically Endangered in NSW.**)

***Photographic evidence (by me), at ground level, that the Glossy Black Cockatoo eats, roosts and probably is still breeding in this Wallum Heath-Ephemeral Wetland. Photo taken 13.10.2023, eaten and discarded casuarina nuts. Casuarina trees destined for removal under the VMP & DA Approval.***



**Evidence that Glossy Black Cockatoos ARE in this habitat despite the ecologist who wrote the Vegetation Management Plan for the Developer, downplaying and not fully acknowledging their presence in this Wallum Habitat.**

*Glossy Black Cockatoo drinking from the freshwater source, October 2023*



**Photographic evidence of the Glossy Black Cockatoos being in this habitat in **October 2016** five years before the Vegetation Management Plan was written which stated they were only at an adjoining rural property. In the Byron Shire Council meeting of 12<sup>th</sup> October 2023, the ecologist who wrote the 2021 VMP for the Developer was still stating that these birds were not there in 2021. Is the Developer pressuring him to say this?**



There are eight known individuals who regularly utilise this Wallum site at present (2023), and more are now coming in recently. Some species should be considered as **Critically Endangered Locally**. **Planning systems should prevent this habit destruction not approve it.**

If this DA Approval is not overturned, then the Glossy Black Cockatoo will be **locally extinct** which flies in the face of environmental protection laws.

*One of the Glossy Black Cockatoos eating Casuarina nuts in this habitat, Oct. 2023*



**The Glossy Black Cockatoo has been in this habitat for decades and probably for hundreds of years. All the local ecologists know this, all the local community know this. One must ask whether the Developer put pressure on the Ecologist who wrote the Vegetation Management Plan in 2021 to downplay this species. Which begs the question why are Vegetation Management Plans, etc., not required to be queried and tested for accuracy by independent ecologists?**

*Glossy Black Cockatoos at the Wallum habitat's fresh water source, Oct. 2023*



The negative impacts of inappropriate developments, poor and flawed planning systems, and weakened environmental laws, **do not consider non-threatened species being worthy of any consideration in NSW**. As a result, these species are waiting in queues to join the Threatened Species Lists.

Here are some of those bird species in the Wallum Heath-Ephemeral Wetland Brunswick Heads **who rated no mention** in the planning system and DA Approval.



*Female Golden Whistler*



*Kookaburra emerging from her active nest on 13<sup>th</sup> October 2023 in the Wallum Heath-Ephemeral Wetland – **in one of the trees destined for removal***



*Red-browed Finch*



*Lewin's Honeyeater*



*Red-backed Wren*



*Rufous whistler*



*Shining Bronze Cuckoo*



*Brown Cuckoo-dove*

**On 24<sup>th</sup> October 2023 the Byron Bird Buddies Group Experts have counted 47 species of birds, and that is just on one morning of one day of one season. Six Glossy Black Cockatoos were counted with video evidence of a call from one of those six begging for food – ie a recent fledgling. Two more were there the next day. Regular seasonal counts over a year need to be done including nocturnal counts. This puts the Developer’s inadequate, dubious and incomplete species documentation to shame. His VMP is a sham. There will be more species added to independent lists in the coming days and months. All Development Applications State-wide should be compelled to list *all* species (fauna and flora) before these DAs even make it to Councils or State planning systems.**

No-one knows with any accuracy or documentary evidence exactly and to what extent **how many** fauna and flora species are actually in the Wallum Habitat. It would take every day for one year in every season to document them thoroughly.



It beggars belief how this DA and other DAs around the State ever get approved.

**And the insects? the Great Pollinators** When do they ever rate a mention in NSW planning systems. Here are some of those **forgotten species**, from the Wallum Heath-Ephemeral Wetland in Brunswick Heads:

This habitat is so rich and diverse with flowering trees and wildflowers that, since at least 2011, (can't get an accurate date before this) beehives in protective custody behind a wire fence have enjoyed its rewards. The bushfire that started in Tyagarah Nature Reserve on Saturday 14<sup>th</sup> October 2023, and continues to burn, came so perilously close, 500 metres, to the Wallum Habitat that all the beehives had to be trucked out.



*Kookaburra devouring huntsman, October 2023*





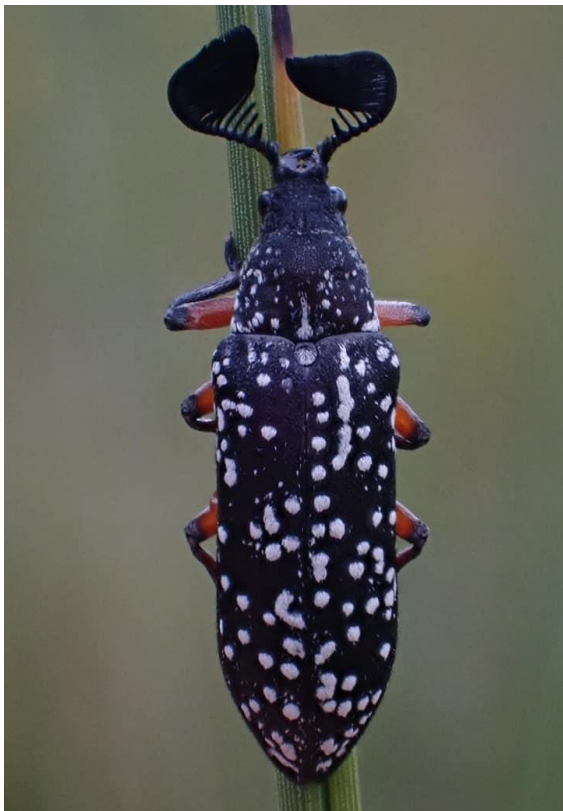
*Native bees, hovering around this Kookaburra, October 2023*

*Rainbow bee-eater – insect lunch, October 2023*





*Varied Swordgrass Brown butterfly*



Feather-horned Beetle



Badge Huntsman

**And the other amphibians who call Wallum Habitat home ? – not one mention of them. Here is one of them, but there are many more amphibians in here all heading for annihilation.**

*Eastern Banjo Frog, Wallum habitat, Brunswick Heads, October 2023*



**The EPA has warned the various owners of this Wallum Habitat for decades NOT TO KEEP ILLEGALLY SLASHING the native wildflower meadow under which the Wallum froglet and Wallum Sedge Frog live. By extension, it would be illegal to construct a massive housing development on top of it wouldn't you think ????? AND YET that's just what the NSW Planning System has done. How is this justifiable?**

This would be consistent behaviour with all planning panels and systems State-wide. Just because panel members can read documentation (*hopefully*) does not guarantee they can understand the implications of their impending approvals, especially without relevant ecological credentials.

**It's as if NSW planning systems have been in a self-induced permanent coma. Or are the humans who are supposed to be enforcing laws just all too comfortably numb, dumb, under educated, and too complacent to be bothered.**

The first **major warnings about environmental destruction** surfaced loudly in Australia in the late 1960's/early 1970's. There were also voices crying from the wilderness warning us for decades prior. And yet, here we are again 60+ years later.

In the **19<sup>th</sup> Century** from the mid-1800s to mid-1900s, my farming families were practising sustainable agriculture around Cowra, NSW, before that name was invented. The lands they purchased had been partially cleared for pasture. They retained vegetation, planted trees, improved pasture, and recycled water from farming and household activities through reed bed purification. They managed to run 22,000 sheep over 11,000 acres without destroying the environment and leaving it in a state that future owners could reap the benefits. One of those properties is still in ownership by extended family.

What happened during the **20<sup>th</sup> Century** that ended with a legacy of vast areas of wild habitat destroyed and vast areas of wild habitat on agricultural land destroyed? Blame it on our successive NSW Planning Departments. Plants and animals are now on Threatened Species Lists, the rest of them are fast approaching that list, and some ecological communities are on the brink.

Fast forward to the **21<sup>st</sup> Century**, when you would have thought that we'd learned our lessons, we are still dealing with habitat destruction and ecosystem decline and collapse. **For this to be still occurring it means only one thing – planning laws and environmental laws have failed, and failed quite spectacularly.**



Wallum Habitat:  
Lewin's honeyeater  
nectar source, the  
*Xanthorrhoea*  
*macronema*,  
destined for  
removal

What's the point of myriads of environment protection laws, Threatened Species Acts, Acts and more Acts, legislation after legislation, rules and regulations, plans and more plans, amended plans - when they are rarely effective thanks to planning systems. Planning Legislation is in conflict with Environmental Legislation. Planning.nsw.gov.au/policy and legislation states: **"We're collaborating to create resilient communities and great places" – Really?**

Planning systems, biodiversity/environmental offsets, and Developers, should be listed as Key Threatening Processes to our mammals, birds, reptiles, amphibians, plants, mosses, soil biota, insects, invertebrates, macro habitats, micro habitats, ecosystems, and to humans. Developers should also be listed as Invasive Species.

Planning systems, past and present, have failed to protect and are still failing to protect the environment. Planning systems disable and override effective environmental laws thus weakening them, and favour Developers; and we all lose. Overwhelming and/or inappropriate housing and infrastructure developments have happened and are still happening with such frequency that many ecological communities have **either collapsed or are on the verge of collapsing**. More and more species are being added to Threatened Species Lists as a result. More species are lining up to be added. We now have the NSW Department of Planning and Environment under the same umbrella with conflicting policies.

*Scarlet honeyeater, Wallum habitat, Brunswick Heads*



*This spectacular, significant and unique Wallum Heathland-Ephemeral Wetland is about to be bulldozed in Brunswick Heads, Byron Shire, if we fail to overturn the DA Approval, thanks to NSW Planning systems.*



## **(2) Let's "break down" where the planning problems continue - Local Government Councils**

**It is clear the State Government has launched a pre-emptive strike against this Planning Enquiry, which therefore requires that all planning changes resulting from this enquiry need to be retrospective. This predatory behaviour is inexcusable.** The State Government in doing this clearly demonstrates that it has no regard nor concern for our communities nor our natural environment, and one can sense the influence of developers.

*The Pre-emptive Strike:*

From the Sydney Morning Herald 12<sup>th</sup> October 2023:

The NSW Government has declared: *"The State Government wants Byron Shire to come up with 4,522 new homes by 2041 – a 25 percent increase in its housing stock – and the Council has honed in on Brunswick Heads as the answer, saying the village and surrounding rural area could host another 1990 properties over the next 20 years ....housing in Brunswick Heads is set to triple*

*in size in the next 20 years under a council proposal. In particular it has identified for investigation about 130 hectares of elevated agricultural land south-west of the town, known as Saddle Ridge...Saddle Ridge is deemed “regionally significant farmland”...council says rezoning the land for residential use would allow for another 1500 medium-density homes to be built there. (Emphasis added via underline to the most ludicrous parts).*

Why on earth would our Mayor and Councillors support this proposal, given that they are already fighting, in their own way, for the protection of the Wallum Habitat in Bayside Brunswick Heads and surreptitiously supporting the preservation of this habitat, ad infinitum? What **monetary enticement** has the NSW Government given the Council to agree to extra housing?

None of these proposed houses will be Affordable Housing. None of the current nor proposed housing developments in this Shire are affordable for those in the community seeking housing via purchase or rent. They will all be used as investments and Air B&Bs.

**Bye bye rural towns, hello Gold Coast**

**This used to be bush**



*The small tree-less small lot sized housing slums in Arundel, Gold Coast, Qld.*



Brunswick Heads town, or village as this article states, is bounded by the M1 motorway to the west, Simpson's Creek\* and the ocean (Cape Byron Marine Park\*) to the east and south, and the Brunswick River and creeks to the north, south, east and west of the town, and surrounded by bushlands. There is no suitable nor appropriate land left in Brunswick Heads on which to build. *\*both Sanctuary Zones.* [We are full up, and fed up.](#)

**There is no appropriate land left to build on in Bayside Brunswick Heads either, because it floods and burns, and the current DA Approved site is an MNES and Critical and Significant Habitat.** The established part of Bayside **also floods, and is a major fire risk.** It is all established wetland, surrounded by creeks the largest of which is Simpsons Creek which is part of the Brunswick River system which flows to the Cape Byron Marine Park, surrounded by bush on all sides.

**Sometimes the wetlands are dry, like now, increasing the fire risk as we have just experienced with the Tyagarah Nature Reserve fire (14<sup>th</sup> October 2023 and onwards) which adjoins Bayside, and the Wallum Habitat. As at 22<sup>nd</sup> October, 2023, 728 hectares have been burned; still burning but contained. This fire came within 500 metres of Bayside Brunswick Heads and the Wallum Habitat. It didn't get any further thanks to the fires, and fire retardant aircraft bombing; but what if a fire starts *in* there. There is only one road in and the same road out.**

The Developer plans to bring in **tonnes of soil** to elevate the Wallum Habitat above sea level to build his massive "luxury" housing estate. This soil will bring in pollutants and contaminants from wherever it is sourced, which will, in rain and flood events contaminate the ground water table (which is high in there), Simpson's Creek, the Brunswick River and the Cape Byron Marine Park. It's an ingenious plan ! [Pollutants and contaminants are never mentioned in DAs.](#)

Bayside Brunswick Heads is where the community are now fighting about four inappropriate development applications including the one just approved, i.e. the Wallum Habitat at 15 Torakina Road, Brunswick Heads.

The greater part of the Byron Shire is flood prone, as evidenced in the Great Floods of Feb/Mar 2022, and the lesser flood of 2017. Major flooding occurred and the people more seriously affected live in houses built on wetlands and

swamps, and too close to the river and surrounding creeks of which there are many.

This house, among others, was built on the edge of a large wetland, now a Golf Course!! Two-meter-high flood waters inundated the wetland/golf course and into some people's houses during the Feb/Mar 2022 Big Flood. The road in/same road out, was two metres under water at both ends. The water rose another 30cm after this photo was taken. The second photo shows what it looks like in the non-flooding seasons. Any significant downpours also inundate this wetland/golf course and surrounding streets. Improving drainage will not fix this problem because the area is a natural water catchment and all existing stormwater outlets run into this wetland/golf course. **After the devastating floods here in Feb./Mar 2022, nothing more needs to be said about building in flood prone areas, surely. Stop building in wetlands, near rivers, in catchment areas, and near creeks. Simple !**



## Housing

The Planning Department can keep on building in well-known flood and fire zones in the State if they feel compelled, keep on destroying habitats and ecosystems, but they need to be prepared to be sued by incoming residents in newly approved housing estates when they burn and flood.

Two million tourists visit these one-road-in-same road-out towns in the Byron Shire in the warmer months, and increasing numbers of tourists in the off seasons. This exacerbates the shortage of permanent housing due to so many holiday-lets. **We are full up and fed up here already.**

Many inappropriate Development Applications are being used to justify a “housing crisis” and the need for more housing. There is no “housing crisis” as such. Rather there is an unaffordable housing problem regarding uncontrolled and unregulated purchase prices and uncontrolled and unregulated rent increases over past decades. Overseas investors (think China here) are allowed to buy our houses, sell them after a year at elevated prices, and up goes the rent, again.

Last year, four young men were renting a house in Arundel on the Gold Coast for \$600 per week. The Chinese investor who owned the property sold it after a year. Before he sold it, these young men were told to move out. At this time there were no affordable rentals for them to move into. One had to move back home with his mother in Brisbane thus losing his job and his university studies, one had to move back home with his mother in NSW and had to travel 3 hours a day, six days a week to work and back. The other two went couch surfing. The same property, when purchased by another Chinese investor three months later, went from \$600 per week to \$900 per week overnight. These Chinese investors don't even come to Australia to look at the properties. This is happening in NSW as well. Overseas investment in Australia needs to stop.

Until something is done to regulate house prices, rentals and overseas investors spiking our housing markets, nothing will change, and adding more houses to our towns is certainly not the answer, because the cycle will continue.

**The Developer of the Wallum “Luxury Homes” Estate in Bayside Brunswick Heads in the Byron Shire is a fund manager.** They currently have over \$471,000,000 (that's millions!) in the company fund. This Developer has no interest in houses, rather he has a vested interest in making money for himself

and his investors in whatever land he can dump his housing estates and infrastructures upon, destroying habitats and ecosystems wherever he goes. Look what this Developer has done to Casuarina north of Byron Shire, and elsewhere in NSW and Qld. These people have no scruples. And the cycle of unaffordable house prices, unaffordable rents, all increasing exponentially over the next few years, continues. And no Affordable Housing. Thanks go to the NSW Planning Department and Local Government Councils.

How many more development applications and DA Approvals will the Byron Shire and State communities have to be fighting in the future? We are fighting enough of them already. **Planning processes got us into this mess and they need to get us out of future messes.**

**Local Government Councils should be the ones approving housing and infrastructure development, no matter how big or small, because it is in their Shires where the effects of such developments are most acutely felt. Local communities can then scrutinise. HOWEVER, most Councils are currently dysfunctional and they need to be made to clean up their acts before becoming the assessors and approvers/deniers, with suitably qualified staff. And this should be the next State Government Enquiry.**

Currently we have unqualified Council staff assessing/approving and passing on Concept Plans and Development Applications way above their credentials. One Byron Shire Councillor has spoken out loud about their Council staff having no expertise in assessing environmental issues, and all Councillors know this.

Council planning department staff and environment department staff clash not only between themselves, but also with their own Councillors and members of the public. In my Shire, with this recent inappropriate and devious DA approval, some Councillors have queried Council staff about this planning process only to be rebuffed by the staff. Some members of the public have been treated by Council staff with the utmost contempt and rudeness.

Some Councillors in my Shire have stated openly that they knew nothing about the Wallum DA being sent for approval, and yet minutes of a Council meeting on 9<sup>th</sup> February 2023 prove otherwise – all of the Councillors knew about it.

The left hand of Councils does not know what the right hand is up to, and vice versa, which leaves little scope for either their own internal transparency, nor public scrutiny. This happens in other Councils.

Councillors are now rushing in for photo opportunities in an attempt to demonstrate their concerns regarding this local DA Approval when they should have been on the frontline in the first place **defending this habitat and its occupants** and refusing to pass on this Development Application for approval, for the most appalling and inappropriate massive housing development that it is.

### **Local Government Council/Developer Community Consultations:**

Are inadequate to alert residents of Shires of pending DAs. More often than not, advertisements in the local newspaper asking for comments and/or submissions on DAs, are placed somewhere between Births/Deaths/Funerals and Remedial Massage in the rear of newspapers where hardly anyone looks.

The “advertisement” regarding community consultation for the Wallum Habitat in Bayside Brunswick Heads was reported in supporting documentation by the Developer as being a quarter-page advertisement. In reality it was an eighth-of-a-page advertisement in font size 8 !!

Large scale advertisements of pending DA’s rarely make it to that part of the newspaper that people actually read. My local Council do not even bother to put Development Applications on their own Facebook page. This can be interpreted as keeping as few community members from knowing about pending DAs, significantly reducing the number of community submissions opposing these developments, which favours developers getting their DAs approved.

Councils should be required to make known these pending Development Applications by more appropriate and substantial means.

### **From the Community Consultation Report June 2021 by Promedia Public Relations regarding the Wallum Habitat at Bayside Brunswick Heads.**

*“A full community consultation program undertaken between 19<sup>th</sup> May 2021 and 2<sup>nd</sup> June 2021 with onsite information session on Saturday 29<sup>th</sup> May 2021.”*  
An onsite corflute signboard was installed for a few days which could only be seen by the enclaved Bayside residents, *only* if they walked past the sign, and not able to be seen by the entire shire. All this happened DURING THE COVID

LOCKDOWNS obviously on purpose. Their “full community consultation” is a lie. Only 200 people in the entire Shire of 36,000+ were letter boxed dropped by the Developer with biased information. Only 40 people attended. Thirteen submissions were received all objecting to the DA Approval with the NRPP dismissing them all. **If this consultation/submission was activated for this site today, 26.10.2023, you would have at least 3,800 objections just from the Save Wallum-Brunswick Heads Group, let alone the greater Byron Shire.**

### **Example of the Local Government DA planning process in my Shire – Summing Up**

Please refer to the recent devious DA Approval for 15 Torakina Road, Brunswick Heads. This DA was unjustifiably processed and forwarded to the NRPP by unqualified Byron Shire Council staff, and inappropriately approved by the NRPP outside their jurisdiction. Have they been reprimanded and sacked?

**This DA was required to be processed by the Federal Government under the EPBC Act 1999 due to the habitat being Core Koala Habitat and MNES.**

As a result of this inappropriate and unlawful planning process and approval, the **Wallum Heathland-Ephemeral Wetland habitat** and its occupants, many of whom are Threatened Species will be destroyed.

There is **only 1% of Wallum habitat left** in the entire Byron Shire and this portion of it in Brunswick Heads is about to be annihilated.

How this nationally, state-wide and locally significant Critical Habitat in Brunswick Heads was approved by Council in 1988 as residential zoning, which is also in a flood and fire prone area, beggars belief. Corruption?

Development Approvals are occurring all over our State and Australia, some of which are utilising dodgy planning laws and older planning and environment legislation, resulting in what is now known as **Zombie Developments**. Under the microscope these Zombie Developments contain elements of corrupted and unlawful processes. They more resemble **third-world countries’ actions**, than that of Australian community expectations in the 21<sup>st</sup> century.

Not content with being a part of the recent inappropriate DA Approval process, which unless overturned will destroy the Wallum habitat and its occupants, my

local Mayor is reportedly to have said recently that he is in favour of approving housing developments on prime agricultural lands at the behest of the NSW Planning Dept.

**If Councils are to be given future powers to approve or deny Development Applications in their own Shires, which should be the case, then a NSW Government Enquiry should be instigated before this happens, to ensure a massive cleanout and cleanup of all Councils planning and environment departments to remove the dysfunction, and to get suitably qualified staff, something currently absent.**

*This female Glossy Black Cockatoo is about to lose her food, roosting and breeding site in Wallum Habitat, Brunswick Heads, thanks to NSW Planning. Which part of any of this DA Approval makes any sense? The humans involved in these planning processes have allowed this pending destruction to occur and wilfully ignored Environmental legislation. The Developer has no empathy for any of the fauna and flora that he is about to destroy.*



### **(3) The next big problem in planning processes, after Local Government Councils, is Regional Planning Panels**

As already stated, the **Northern Regional Planning Panel** has just inappropriately and probably unlawfully, approved this massive and inappropriate housing DA on Critical Habitat of the Wallum Heathland-Ephemeral Wetland, in a flood and fire zone, in a very small town, solely on the basis of documentation provided to them by the Developer, without any up to date environmental impact statements nor adequate flora and fauna surveys provided by either Council staff or independent biologists/botanists/ecologists, nor any adequate community consultations.

**This DA should have been referred straight to the Federal Government under the EPBC Act 1999.** *(We understand the Developer has now been told by the Federal Minister to do just that.)*

The NRPP had no right to approve this DA. Council Staff and the NRPP knew this was a matter for the Federal Government and yet they did not comply. Have they been reprimanded and sacked ?

Most, if not all, of those panel members do not have any environmental credentials (relevant environmental/biological university degrees) to be approving such significant matters especially where habitat destruction is guaranteed.

**Biodiversity/Environmental Offsets are used to justify unjustifiable DA approvals by these panels and by any other approval body, despite their known ineffectiveness.** *(More about these offsets later)*

The inherent structure of these panels leads to corruptible processes and lobbying interference by Developers. Recent NSW changes to planning panels regarding corruption and conflict of interests have not been effective. Developer influence and lobbying behind closed doors is a very real factor in these development applications being approved when they should not be.

Two community members comprise these panels. However, they are not elected by the community and therefore do not represent us.

Council Staff and Councillors often recommend community panel members, without wider community knowledge, which suggests that Councils have much to gain by such an appointee especially if that appointee is a former or future Mayor, Councillor or Council Staff member with vested interests in DAs being



approved. This has the potential, and reality, to be a corrosive and corruptible influence in all planning processes.

*This male Glossy Black Cockatoo, documented on 24.10.2023, seen with six other adult Glossy Black Cockatoos plus a recent fledgling offspring in one of their feed trees in the Wallum Habitat, Brunswick Heads, are all about to have these Casuarina trees cut down, thanks to NSW Planning. Where does NSW Planning propose that these eight birds should go? The planning humans who have allowed this to occur need to be educated.*



#### **(4) What's the point of having Environmental Legislation when it can't do what it says it's going to do**

Environmental legislation has been so weakened by planning systems and interference that it has become ineffective in regards to its original intent.

Piece by piece the natural environment in NSW has been bulldozed and destroyed in coastal and inland areas, and look no further for evidence than the mess that Greater Sydney is now in. Coastal and inland towns have been swamped in the last 60 years with housing developments that require more and more infrastructure that requires more habitat destruction. **If this keeps up there will be no more habitat to destroy, and joyfully no more developers.**

The fact that we now need to place many habitats, flora and fauna onto Threatened Species Lists and Threatened Ecological Communities should be warning enough that planning processes and laws have failed miserably. We keep on destroying habitat and more and more species are having to be added to Threatened Species Lists.

*How many more years do Bar-shouldered Doves have left before they are also added to Threatened Species Lists. Wallum Habitat, Brunswick Heads, Oct.2023*



**Swift Parrots**, which visit this Wallum Habitat, and eat the lerp from the gum trees, are listed as Endangered under both the EPBC Act 1999 and the Biodiversity Conservation Act 2016 **and yet they weren't listed in the Developer's VMP.**

There is also an EPBC Act 1999 **National Recovery Plan for the Swift Parrot.**

**What's the point of a National Recovery Plan when their habitats are being destroyed by planning processes in NSW alone.**



*Swift Parrots and also Sugar Gliders in this Wallum habitat eat this lerp from this scribbly gum.*

What's the point of placing the **Eastern Grass Owl as Vulnerable** on the **NSW Threatened Species Conservation Act 1995** when their habitat and feeding ground is about to be destroyed in the Wallum Heathland in Brunswick Heads, and other areas around the State. These owls didn't even rate a mention in the Developer's Vegetation Management Plan.

## (5) Too much bureaucracy

Acts, legislation, sections, sub-sections, clauses, sub-clauses, sub-sub-clauses, evasive and opaque wording, inconsistencies, contradictions, and too much interference and cross-referencing to other legislation, sections, sub-sections, plans, reports, etc., all of which promote planning approvals over Environmental Legislation which thus overrides and negates the implementation and effectiveness of Environmental Legislation in all three tiers of government.

The amount of this bureaucracy is breathtaking.

Then try navigating it all:



One part of one Act is often negated by one or more parts of the same, or another Act, and this is evidenced in the way **Environmental Legislation rarely gets to do its job.**

How does one expect the ordinary citizen who does not have environmental nor planning qualifications, nor previous experience, to navigate such a maze, especially in a “community consultation” phase of only 28 days. In this 28-day period, communities are required to be consulted (often doesn’t happen

properly or at all), then to research, then to understand it all and the implications of such developments, and then to submit concise objections.

Many people with environmental and biological science degrees, such as myself, also struggle with the maze and enormity of documentation to research and understand in a 28-day period, let alone having time to write submissions.

In the recent DA Approval processes in the Byron Shire, the “community consultation” was instigated **during Covid lockdowns (obviously on purpose)**, was inadequately advertised, which is evidenced by out of 36,000 potential objections, only 13 submissions all opposed to this development were submitted and subsequently dismissed by the NRPP.

In this 28-day period, communities have to also navigate the humongous amount of (often deceptive and manipulative) supporting documentation by the Developer which is often not made available to the public, and trying to seek out this documentation online is extremely difficult. Many people therefore give up, tear hair out, and then come on board when community protests are instigated against DA Approvals. Community consultation periods therefore need to be extended to at least six months.



**(6) The prime motivation for Developers and their development applications is making very large amounts of money for themselves. Current and past Planning laws and systems make this a reality at the expense of the environment and its inhabitants, and humans.**

**(a)** Developers don't care how they achieve their goal. Manipulation, coercion, corruption it is all part of their game. Ask any community in any town in Australia and they will tell you the same thing.

Developers destroy habitat and wildlife in one town and move on to the next town. They negatively impact one town and move on to the next town and repeat the process ad nauseum. Developers rarely live in the towns they are

about to destroy. Developers destroy soil biota, a frequently omitted and neglected part of a DA Approval. Interconnecting ecosystems are negatively impacted. Stress to wildlife in site preparations and constructions is never addressed – just the noise and dust alone would prompt wildlife evacuations.

Developers infiltrate and spy on communities and community groups when the latter take action to overturn DA Approvals. This is already happening in my community. Developers create fake Facebook identities, join community Facebook groups and spy on us. **If Developers have nothing to hide, then why the underhanded tactics.**

### **(b) “Vacant land”**

“Vacant Land” is viewed by Developers as easy prey. Developers often refer to “vacant” bushland as paddocks. **“Vacant land” is occupied – it is chocker block full of life** - wildlife and native plants, frogs, snails, fungi, microorganisms.

The description by the Developer of 15 Torakina Road, Brunswick Heads as a **“paddock” is manifestly wrong and a lie**. The Developer has even chosen a distant aerial photo that seems, incorrectly, to show the site as a paddock. From the photos in this submission, it is very clear that this habitat is not “paddock”, **but rather is teeming full of wildlife, wildflowers, native grasses and trees**. NSW Planning didn’t even fact check Developer documentation.



*Noisy Friarbird, Wallum Habitat, Brunswick Heads, October 2023*

*The Developer has had the audacity to name his unaffordable “luxury housing” development after the very Wallum Habitat he is about to destroy. The “luxury homes” are nothing more than cheap Gold Coast style houses on infinitesimally small lots with a high price tag.*



*Two “paddocks” separated by a north-west stormwater drain down the middle*

These “paddocks” are one of the last remaining Wallum habitat types left in the Byron Shire **with only 1% remaining** – and even less when this “paddock” is destroyed. These “paddocks” are Critical Habitat, MNES and contains lots of Threatened Species most of whom were omitted from the Developer’s VMP.

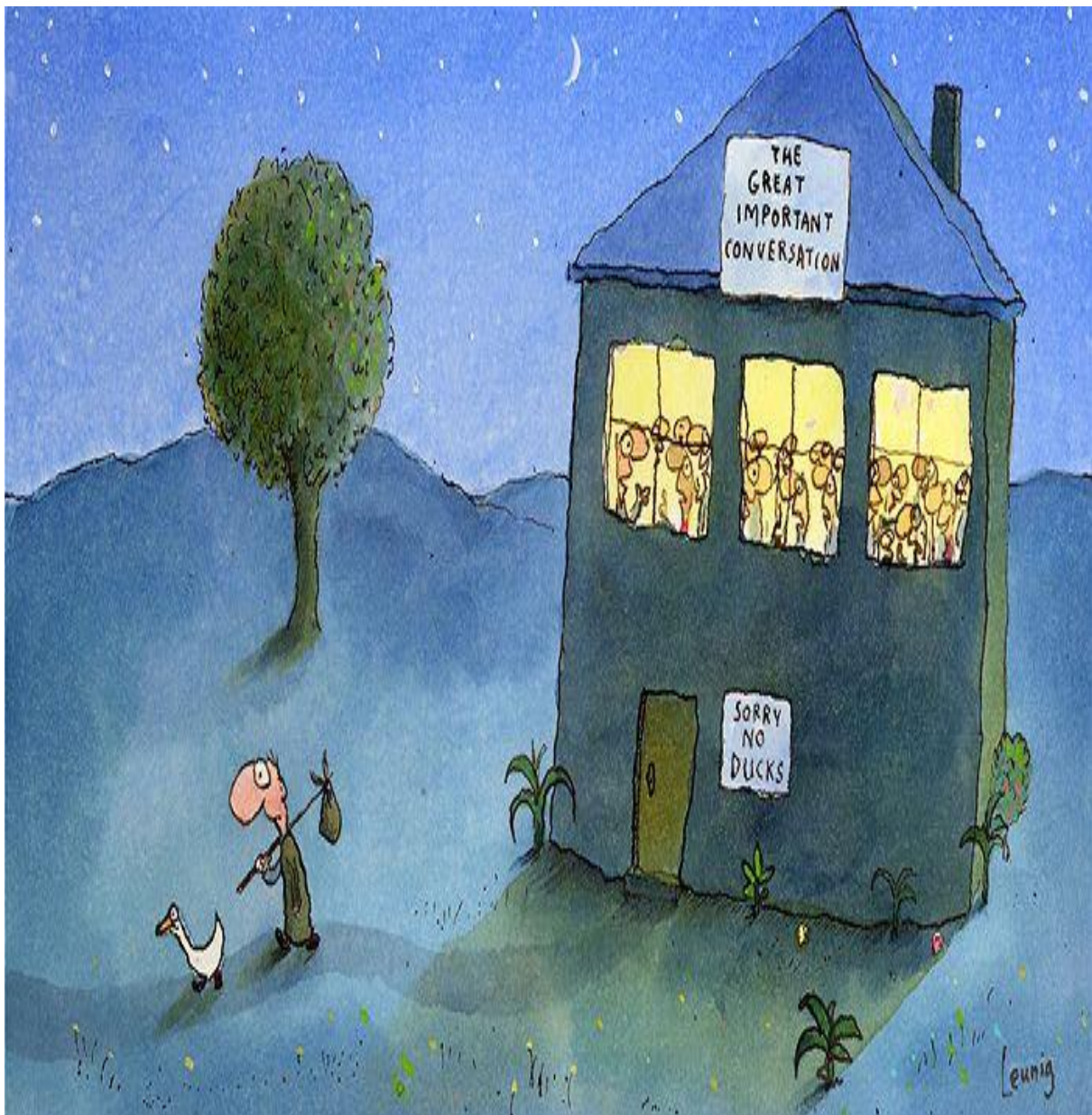
### **(c) Behind Closed Doors - How Developers “work the room”**

*Anecdotes are important. They show how the system really works.*

Fifteen years while in Perth, W.A., a Developer/Builder friend inadvertently taught me a lot about how Developers manipulate and cajole Local Councils and State Governments. Dinner parties with representatives from these government agencies occurred frequently, where surreptitious deals were done behind closed doors. **This is how Developers rot the system.**

Having attended large cocktail parties in an Olympic-sized swimming pool foyer of a house owned by a large Construction Company/Developer, also in Perth, and observing invited guests -State Government Ministers, their department

staff and associated appendages - dodgy deals were done in total disregard of planning processes and environment laws, executed in earshot of all the guests. **This is how Developers work the room and rot the system. And not an environmental representative, nor duck, in sight.**



If anyone thinks Developers are not working the room in all tiers of Government, then one is deluded.

Even if the planning processes were effective, which they obviously are not, these underhanded deals will continue unless legal safeguards and monitoring processes are put into all legislation and acted upon.



## (7) Environmental Offsets, Biodiversity Offsets

They're a joke, right ?

From the Australian Government's Department of Climate Change, Energy, the Environment and Water: *"We have laws in place to **protect our animals, plants, habitats and places**. Your actions might have **adverse** residual impacts on them. Using environmental offsets can balance such impacts. Offsets are **only** an option after you've tried to **avoid** or mitigate any impacts. **Offsets do not make an unacceptable impact acceptable.**"* (emphasis added) **This is just doublespeak/contradiction. Ditto** for the biodiversity offsets scheme under the NSW Biodiversity Conservation Act 2016 with fairly similar wording.

"Balancing such impacts" is nonsense. How can one "balance" a habitat post-destruction when there is a great big massive housing estate on top of it !! It was balanced before the destruction.

These offsets are also doublethink: *"a process of **indoctrination in which subjects are expected to simultaneously accept two conflicting beliefs as truth**"*, or in the case of environment legislation and planning systems – self-indoctrination.

**Offsets result in our NSW and Federal Environment Departments overriding their own environment protection laws in favour of Planning Departments and Developers, approving destruction of habitats, and we all lose.**

Offsets are an arrogant, inane, inept, nonsensical, hypocritical, tokenistic (take your pick) unjustifiable attempt to recreate or replicate something destroyed as **justification for destroying it in the first place.**

Are not worth the paper they're written on; they are demonstrably ineffective, inadequate and laughable; and **are used to justify The Six Big Don'ts.**

Are used to justify inappropriate Development Application approvals.

Justify, after habitat destruction, inappropriate and massive housing developments, and other infrastructures, into many small rural towns, destroying the very fabric and community expectations of those towns, with a "promise" of re-vegetation using 40cm high saplings as "compensation" which will take decades and hundreds of years in some cases to provide food, shelter and breeding sites for the wildlife, if there is any room left to do so.

The very small lot sizes of these housing developments turn these small towns and many regional centres into Gold Coast style housing slums, causing unwanted population increases, traffic chaos and infrastructure problems, and no room for vegetation for wildlife or gardens. If one is lucky, one is able to fit in a welcome mat and garden gnome.

Justify habitat destruction in all types of wetlands which leads to flooding issues in these housing estates. Wetlands left intact are flood mitigators. Allow all types of wetland habitats to be drained because of the housing estates. Wetlands should not be drained, ever.

Allow habitat to be destroyed based on these offsets which, after the habitat is destroyed and fauna and flora and soil biota are destroyed, displaced, and disturbed, create urban park-like and city-scaped landscaping resembling nothing like the original habitat, with just the odd token native plant plonked in as justification.

They are a loophole in environment legislation that allows developers to destroy habitat which pushes more species onto Threatened Species Lists.

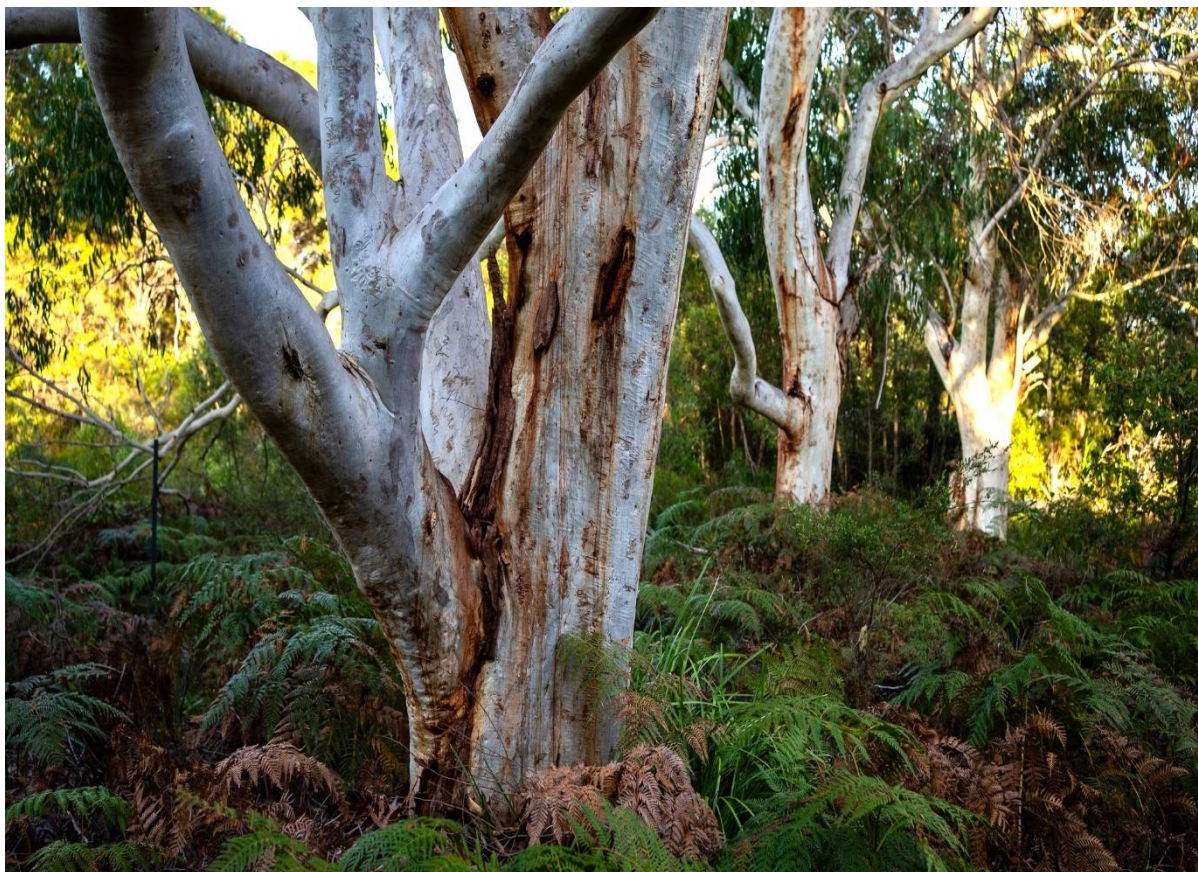
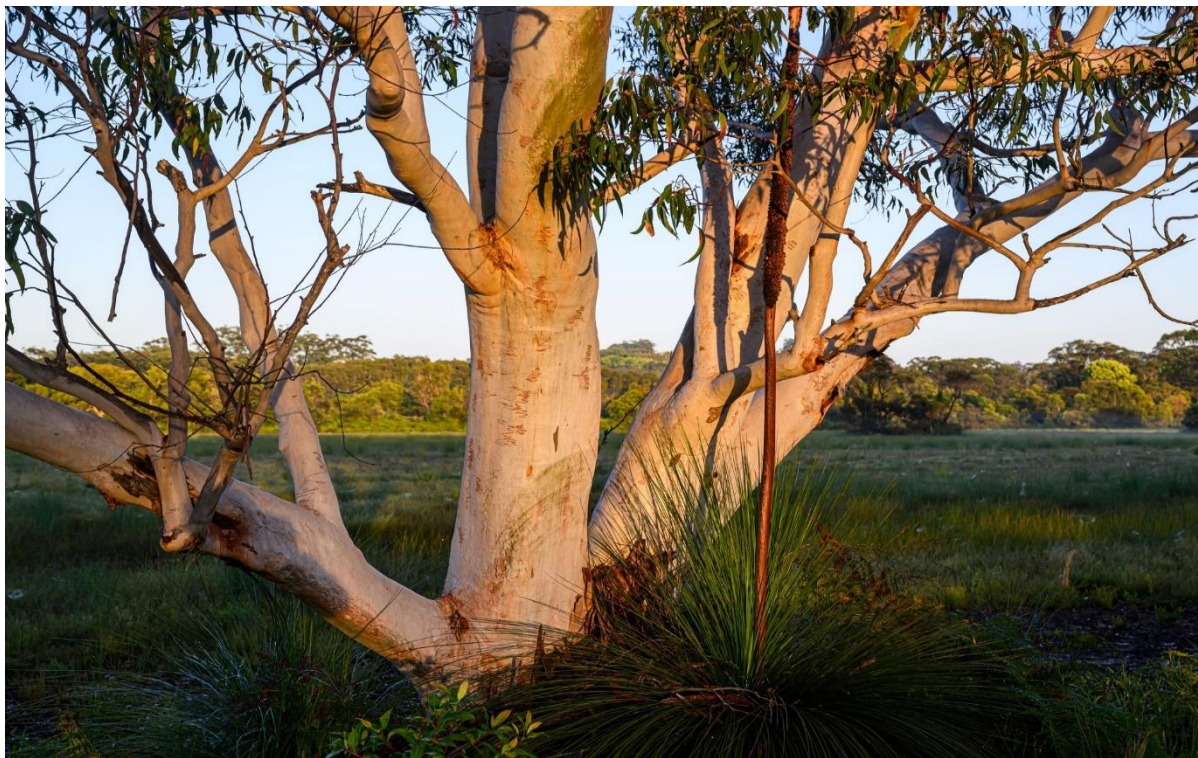
They don't give any consideration to the impact on the already Threatened Species in those habitats despite what government blurbs blurb about.

The nonsensical proposition that Scribbly Gumtrees can be replaced, via offsets, with saplings on the outer edges of the destroyed habitat fails to take into account that the hollows in the existing trees can only form when the tree is 200-300 years old. The 40cm high saplings won't provide any food for Koalas for 10 years, or tree hollows for nesting purposes for the three species of black cockatoos, gliders, other birds or bat species for 200-300 years !! The VMP for the Wallum Habitat suggested that the existing Scribbly Gums with tree hollows were only 50 years old which was corrected by the ecologist who wrote the VMP in the 12<sup>th</sup> October 2023 Byron Shire Council meeting where he was grilled about a number of contentious issues.

The definition of **biodiversity** is clearly misunderstood in these offsets.

**The removal of these ludicrous and tokenistic biodiversity/environmental offsets is high priority.**

*Scribbly gums in the Wallum Heathland-Ephemeral Wetland in Brunswick Heads, destined for removal courtesy of mindless decisions by NSW planning systems and approvals.*





***Scribbly gum tree hollows destined for removal. Exactly where does the NSW Planning Department expect all the three species of black cockatoos, glider species, owls, owlet nightjars, native bees, bat species, treecreepers (birds), possum species, parrots, antechinus, kingfishers, snakes, frogs, skinks, etc. who use these hollows, to “relocate” to ? If they manage to survive the destruction, relocation will force them into neighbouring already occupied habitats. This will lead to over-crowding, pressure on limited resources, territorial fights, often occasioning death. This is something never considered in planning systems.***

The Threatened Wallum Froglet and Sedge Frog current breeding habitat:



Will be replaced with this illogical environmental offset artificially constructed pond which is known not to work for either the Wallum Froglet nor the Wallum Sedge Frog.

This is the idiotic, unworkable trial pond:



## (8) Vegetation Management Plans

(i) This is a deceptive title if ever there was one.

To the ordinary person these VMPs might sound like a good thing. But they're not. Most people do not know that VMPs are commissioned by Developers to support their Development Applications. In terms of the environment, they address, mediocrely in most cases, the on-going management requirements of native vegetation (if there is any left) within a proposed development site, **during its destruction and after its destruction.**

**It's like having a plan to mow your lawn after you've paved over it.**

*This Magpie Lark is building her nest, October 2023, in a tree, which among 200+ other trees are destined for removal in the Wallum Habitat-Ephemeral Wetland, Brunswick Heads development. The Vegetation Management Plan proposes to replace this tree with a 40cm high sapling, in which this Magpie Lark is supposed to build its future nests. The look on its face says it all.*



**VMPs are not based on sound ecological principles.** VMPs manage to **minimise** the significance of existing vegetation, whilst maximising the “rehabilitation” of any part that manages to survive the destruction; but that’s only 5% of the “Plan”. “Rehabilitation” consists largely of plonking a 40cm high native sapling here and there, if there is any room left. 95% of this VMP is all about site preparation and construction. For the planning process that led to the approval of this DA in the Wallum Habitat, there were no Independent Ecologists’ Reports required, which would have defended this habitat from destruction.

*Wallum Heathland-Ephemeral Wetland Habitat, Brunswick Heads, headed for destruction.*



*Eastern Yellow Robin, Wallum Habitat, Brunswick Heads, October 2023*



**(ii) VMP used to approve the DA for 15 Torakina Road, Brunswick Heads**

This is an important example of the inadequacies of VMPs and planning systems. It was commissioned by the Developer as supporting documentation for the DA Approval. **How the DA managed to be approved by the NRPP with documentation like this, proves exactly how failed the planning system is.**

**Classified Ads: Byron Shire Echo Newspaper, October 2023. “ATTENTION: Swamp Wallaby groups seeking new permanent housing opportunities due to our pending eviction from our habitat about to be destroyed in Wallum Habitat, Brunswick Heads. We are clean, smart and respectful tenants with excellent references especially, but not only, in our ability to mitigate potential fire hazards by eating and maintaining low levels of combustible grasses. Seeking honourable and respectful Landholders only.”**





The VMP is 94 pages long. Try reading and understanding this, together with all the other documentation, in the short time frame for community consultations and submissions.

**No comprehensive lists** of any of the plants, mammals, birds, reptiles, amphibians were recorded in this VMP nor in any of the other documentation. Not one mention of the incredible variety of insects – all of which pollinate the plants. **Not one mention of the Mitchell’s Rainforest Snail, an Endangered to Extinction species listed in the Threatened Species Act. A token gesture mentions a few of the Threatened Species while omitting the rest.** The importance and significance of this Wallum Heathland-Ephemeral Wetland as Critical Habitat, Core Koala Habitat and MNES was never mentioned, nor was it noted that **only 1% of this habitat type is left in the Byron Shire.**

(iii) **The absurdity of this VMP** proposes to dig up and move all the Flying Duck Orchids *Caleana major*, into anything that’s left of the outer edges of this habitat, and “replant” them which **will guarantee their deaths.** This equates to the orchid now being a critically endangered plant in this habitat and after transplantation, and its death, will become locally extinct.



Even the shape of this orchid seems to imply it’s only just hanging on.

## THE ABSURDITY OF THIS VMP DOES NOT STOP WITH THE FLYING DUCK ORCHID

This VMP proposes to **round up, catch and relocate ALL the tiny threatened Wallum Froglets** into specifically designed ponds in **which they cannot and will not breed**, so that this massive housing development can be constructed on top of their current habitat as part of the nonsensical and tokenistic gestures of Biodiversity/Environmental Offsets. Imagine that working !



*This is the size of the Wallum Froglet they are hoping to “round up, catch and relocate”.... And good luck with that !!*



What we do know that will breed in these artificially constructed ponds, endorsed by the planning system and approved by the NRPP, is that **cane toads and their offspring will love them.**

At the 12<sup>th</sup> October 2023 Council Meeting where the Ecologist from Australian Wetlands Consulting Pty. Ltd. described his VMP proposals, the audience erupted in laughter. The poor man had to find ways to justify this Developer's destruction of the Wallum Froglet's habitat, etc., using any unjustifiable and ludicrous means as possible to satisfy our NSW planning systems requirements, especially, but not only, via the idiotic Biodiversity/Environmental Offsets.

***Have you ever realised that someone you believed was working against you was actually inadvertently supplying you with evidence needed to help you win a fight?*** After the laughter died down, it was clear that we **have enormous evidence of why this DA Approval should be overturned.**

(iv) This habitat and its inhabitants, rely upon **acid-sulphate soils**, upon which the houses will be built. Only three acid-sulphate soil samples were taken over the entire 30+ hectare block, and only taken in the existing north-south open stormwater drain WHERE NONE OF THE HOUSES WILL BE BUILT. These soils are unequally distributed all over the site.

When acid-sulphate soils are disturbed, as they will be, sulphuric acid is released which also penetrates concrete – the new inhabitants of these houses **will be poisoned** via their concrete floors.

The brief for the Acid-Sulphate Soil Assessment by Australian Wetlands Consulting in August 2021 for the Developer, limited soil sampling to the drain only !! Did the NRPP actually read this assessment and ask further afield about negative impacts of disturbing these soil types? Obviously not.

**The Ecological Assessment that the Wallum Habitat's VMP was also based on, and approved by the NRPP, was dated July 2011 – TWELVE YEARS OUT OF DATE.**

## **(9) What's wrong with the NSW Planning Laws and systems:**

Pretty much everything, as it turns out – through all three tiers of government

They are key threatening process to our natural environment and communities;

Rubber stamp DAs which lead to the **Six Big Don'ts** which destroy habitats and ecosystems which should otherwise be permanently protected;

Contradict, compete with, weaken and override environment laws;

Favour Developers over environmental laws;

Appear to have been written by Developers;

Approve inappropriate developments;

Approve “Zombie Developments”;

Planning systems, historical and current, have contributed and are contributing to the **overwhelming eye-sores** of small lot sized housing slums and elevated stress levels for the people who are crammed on top of each other. Neighbours can now hear other neighbours arguing, can listen to a TV program from next door without having to turn their own TVs on, predict with accuracy the toilet habits of their next-door neighbours and what they ate from the sound and smell emanating from next door. To overcome the negatives of small lot sized houses, people live indoors, close their windows and turn the air conditioning on. Apart from a welcome mat and garden gnome there is no room in these lots for gardens for wildlife. Instead of waking up to the sound of bird songs they wake up to screaming kids. And there goes the Australian way of life.

Look no further than Greater Sydney and Greater Brisbane to see what planning systems have done to our cities, let alone regional and rural towns.

Unelected Regional Planning Panel members assessing and approving matters way above their station. Unelected Regional Planning Panel members assessing and approving matters in areas where they don't live thereby not suffering the impacts of their decisions.

Fail to sniff out probable Developer coercion, corruption and collusion.

Unqualified staff for the job at hand, in all three levels of government, assessing and approving DAs.

Approve small car parking sizes at shopping centres ensuring accidents.

Approve roads cutting through habitats thus preventing animal movements in their home range.

Fail to fully assess the negative impacts of large infrastructures, housing developments, and shopping centres on traffic flow, congestion and peace of mind.

Ensure that “community consultation” time-frames are so tight that the community barely get time to read the massive Developer documentations and instead rely on the Developer’s manipulative glossy brochures and biased promotional blurbs. Ensure that after “community consultations” that there is little time left to write a concise submission objecting to DA’s.

Ensure that even if a few people find time to sort through the Developer’s documentations, understand the negative implications of such, and actually write a submission, these objecting submissions are automatically dismissed as easily justifiable via VMPs and useless Biodiversity and Environmental offsets.

**Spurn and repudiate the validity of community submissions opposing DAs.**



## **(10) Building in flood prone and fire prone habitats**

No matter which authority signs off on housing developments, or infrastructure developments, in flood and fire prone areas, **it is an absurd thing to do.**

**The fire** that started in the coastal Tyagarah Nature Reserve at Belongil, the northern part of Byron Bay, on Saturday 14<sup>th</sup> October 2023, and then travelled north to Brunswick Heads **serves as a warning NOT to build in fire prone areas.** As at 26<sup>th</sup> October 2023 the fire is still burning, and 771 hectares has so far been burnt; numerous animals are burnt, in shock and headed for untimely deaths. The Spring nestlings in the trees will all be dead either from burns, shock or smoke inhalation; hopefully the adults managed to fly out. Wildlife rescue operations are stalled while the fire still burns leaving many animals in agony. And we are not out of the woods yet with summer still to come.

And yet, the fire authorities have signed off on the Wallum Heath-Ephemeral Wetland in Bayside, Brunswick Heads housing development, **which is at the northern end of the Tyagarah Nature Reserve currently burning. This is illogical.** The Bushfire Assessment Report 31.8.2021 for the Developer by Bushfire Certifiers, Lennox Head, has the audacity to state this habitat is a low-threat hazard. Really ?

This Wallum habitat is at the northern end of the Tyagarah Nature Reserve and is an extension of it. Without the efforts of the fire brigades and the fire-retardant actions of the air tankers, Brunswick Heads, Bayside Brunswick Heads and the Wallum Habitat at Bayside would have been burned. The fire has burned on the eastern and southern sides of all these locations in alarmingly close proximity of 500m. Thank you firies. The fire even jumped the Simpson's Creek in one place exactly level with this Wallum habitat and Bayside Brunswick Heads.

**The importance of NOT building in this Wallum Habitat next to Bayside Brunswick Heads is all too clear. The established Bayside housing, adjacent to the Wallum Habitat, should not have been built there either, as it is also floods and fire prone.**

**Fortunately, the Wallum Habitat has escaped the fire this time, and the importance of keeping the Wallum Habitat, Bayside Brunswick Heads, as a wildlife refuge after fires has never been more obvious. Those animals who have managed to escape the fires can now come here in relative safety. This is something that planning processes never consider.**

## **STATE PLANNING AUTHORITIES - TAKE NOTE**

### **OCTOBER BURNS RED**

**Stop approving any more DAs in our bush-fire prone rural towns. And yes, they are all fire prone**

This is someone's backyard in Bayside Brunswick Heads adjacent to the recent DA Approval of the Wallum Habitat



**Which part of "fire prone" does the State Planning System NOT UNDERSTAND ??**

*This is not the full extent of this recent fire.*



Using red lettering here to EMPHASISE how the October 2023 fire burned red here.



With no fresh water to access, the helicopters had to access ocean saltwater from the Brunswick River entrance. Salt water can do more damage to the ecology of the land than the fires themselves, but was needed to be done.



## **(11) CONCLUSION:**

### **NSW Planning Laws, processes and systems are a disgrace.**

The case study in just this submission alone proves this, with only a few salient points of this entire mess having been mentioned. No doubt, other submissions will also verify this and other State-wide matters.

If you were to ask someone who has limited knowledge of environment issues and planning laws, who has no knowledge of the locality of this case study and ask them which country in the world this was occurring in, they would likely say a Third World Country.

The consistent and malevolent overriding and weakening of environment laws by planning laws is truly appalling. The cumulative impact of these planning laws is catastrophic to our wild places, to our fauna and flora, and to the humans who also live there.

The sorts of Developers who instigate this type of assault against our wild places, fauna and flora, and to the humans who live in these places, are the adversaries of towns all over the State, possess no moral compass, and they receive the full backing of our NSW Planning Department and most Councils. Developers' claims made in their supporting environment documentation are weak, inconsistent, corrupted, flawed and manipulative, and are never challenged or tested by higher independent powers, leaving it to communities to launch counter offensives against DA Approvals.

Are we going to continue in this fashion? If so, planning systems need to be renamed planning cisterns. If not, then:

### **A thorough colonoscopic-style examination is required to:**

- (1) Investigate the full length and breadth of the planning laws and systems, in all levels of Government, that weaken, oppose, negate, conflict, corrode, contradict and corrupt itself and environmental legislation and its intent, especially, but not only, in relation to the **Six Big Don'ts**;
- (2) Snip, cut and cauterise all incursions that have made their way into our planning systems that weaken and override environmental laws;
- (3) Flush out all other contaminants;

- (4) Rewrite and reconfigure all legislation in all levels of Government using our submission case studies and details, so that the Environmental Legislation is able to do what it is supposed to do;
- (5) Repeat (1) – (4) every two years to remove any “rats” that may have infiltrated through previously unrecognised cracks;
- (6) Remove biodiversity/environmental offsets;
- (7) Abolish regional planning panels, put DAs back with LGAs;
- (8) Establish an enquiry into Local Government Councils with a view to neutralise and remove dysfunction, to include accountability, to insist on qualified staff for the task at hand, and to have independent community groups monitoring all their actions and inactions with a specific government body set up to act on community reports of inappropriate and unlawful activities.
- (9) Fully examine all DAs at a higher independent level than the approver, to rat out inconsistencies, corruption, collusion, unsubstantiated claims and outright lies.
- (10) Stop building in fire and flood prone areas, and stop the processes that are still allowing this to occur.
- (11) Employ people with a conscience and higher education degrees in all three tiers of Governments, both Planning and Environment Departments.
- (12) Independent ecologists must be allowed to submit reports on every Development Application and this needs to be enshrined in all legislation.
- (13) All Developers intending to destroy habitats via the Six Big Don'ts need to undergo comprehensive psychological assessments and ecological re-education programming.
- (14) Don't wait years before effective legislation is changed and established – our wildlife and environment are solely dependent on our actions.



If Councillors, State and Federal Ministers and Senators, expect to be re-elected, then these planning laws and environmental laws need to be smartened up to stop the systemic destruction of our environment.

Biologists, Ecologist and Botanists are not necessarily experts in planning processes. What we are experts in is evaluating and revealing the negative effects and negative outcomes of State planning processes and systems on our environment and its inhabitants.

Just as the RSPCA remove abused pets from their owners, we need to be confiscating abused and soon to be abused land from owners and giving it to people who are trustworthy and will cherish and nourish it, in perpetuity.

All the biologists and ecologists leaving University who yearned to work for Government Departments so they can make a difference, must now either be slumped at their desks in exhausted frustration or have resigned to take up more rewarding jobs at the Woolworths checkout.



In 1990 as part of one of this submitter's Environmental Science units at University, she wrote a substantial essay entitled "Australian Environmental Issues". **Thirty-three years later, what has changed? NOTHING.**

On 25<sup>th</sup> October 2023, the Developer who intends to destroy the Wallum Habitat-Ephemeral Wetland at 15 Torakina Road, Brunswick Heads, **erected a giant immovable wire fence around the substantial heathland part of this larger Critical Habitat.**

How does the Developer intend for our **fire trucks** to enter this property if the Tyagarah Nature Reserve fire, which flared up again on 25.10.2023, reaches and burns this property? What if a fire starts inside this fence?

**This wire fence has now trapped all the ground dwelling mammals and birds inside this fence preventing them from moving out for food, water and basic necessities. It has also prevented all other species from entering into this heathland as part of their basic survival needs.**

*26.10.2023: Standing outside the fence: This Endangered Bush Stone-curlew, one of only six currently known breeding birds in Brunswick Heads is now prevented from entering its heathland habitat for food, water and shelter.*



**If erecting a massive fence preventing wildlife movements is not a criminal offence, then it should be.**

*If the readers of this submission sense frustration bordering on outrage, or sarcasm, you will understand why I offer no apology. Photos and cartoons have been inserted here and there to fill a part of a page for better future page alignment, or to see species before they disappear, or to emphasise absurdity, or to reduce boredom levels, or for amusement in otherwise depressing commentary, and for stress reduction. The photos are extraordinarily good.*

*All photos in this submission, except the Koala and Potoroo ones, were supplied by this submitter and from the Save Wallum-Brunswick Heads Facebook group photographers who have recently been documenting much of this habitat.*

This submission does not attempt to comment on all the problems with the current planning systems; there are just too many. One could go on and on. The problems are so enormous that one local ecologist exclaimed recently when asked how he was going with his planning submission: “Where do you start !!”

This submission has only tackled a few issues regarding poor, and flawed planning systems using this inappropriate and unjustifiable DA Approval at our local Wallum Habitat in Brunswick Heads as an example. This is not just happening here, it is a State-wide problem.

**The insanity of NSW planning processes and systems has to stop.**



***Ring-tailed Possum curled up in daytime sleeping position, oblivious to the pending destruction of the tree it's in and the rest of its habitat.***

I hope you have all stayed awake long enough to get to this glorious end.

**Last Word:** This Willie Wagtail from the Wallum Habitat in Brunswick Heads would like to sum up NSW Planning Laws, systems, and offsets.



Julie Vint BSc.

*Biological Sciences, and relevant Environmental Science units.*

26<sup>th</sup> October 2023