

From: [Anthony Tavella](#)
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Subject: FW: Webform submission from: Draft Master Plan for the Iron Gates Residential Release at Evans Head
Date: Thursday, 5 December 2019 8:14:51 PM

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Sent: Thursday, 5 December 2019 4:44 PM
To: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>
Subject: Webform submission from: Draft Master Plan for the Iron Gates Residential Release at Evans Head

Submitted on Thu, 05/12/2019 - 16:44

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

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Submission file: [webform_submission:values:submission_file]

Submission: Pam Love [REDACTED] Evans Head 2473 Introduction I reject and oppose entirely DA2015/0096. The reasons for my objection are set out below. I have included at the start of my submission a summary of the Orders placed on Mr Ingles as a result of the 1997 court case. The implementation of the Orders is critical to the health of the environment and should be undertaken by Mr Ingles before any new development application is considered. My submission includes comments on the Court Orders and their relevance to Mr Ingles' current proposal. Court case and orders of Judge on 4 July 1997 *Al Oshlack v Iron Gates Pty Ltd* No. 40152 of 1996 [1997] NSWLEC 89 (4 July 1997) 1. The Judge ruled that there is currently no approved development which can be carried out on the site. 2. Therefore Council must consider reinstatement of the land to its initial pristine state. Remediation must be done as per court orders before this DA is considered. 3. The Judge's findings indicated that the filling of the drains were critical to the health of the littoral rainforest and the SEPP 14 wetland. 4. If any DA is considered the puncturing of the coffee rock in the western drain must be investigated and repaired if necessary. 5. The court orders required the borehole testing of the two drains to determine if the layers had been breached. 6. The drains were required to be backfilled, the roads scarified, the site restored to its free draining topography and that the site MUST be revegetated to its ORIGINAL condition. Council has a moral and legal obligation to ensure the court orders are complied with. Comments on DA 2015/0096 Should Council prefer to consider this DA instead of enforcing the court orders, the following comments are provided. 1. Iron Gates Residential Development Revised Engineering Services and Civil Infrastructure Report – Arcadis Consulting Pty Ltd, 12 November 2018 and Engineering Plans, 26 November 2018 Engineering plans seem to indicate eastern and western drains will remain. However, Section 5.2 of the 'Road Stormwater Drainage Works' says that the eastern drain will be filled. This is critical

to prevent damage to the wetlands to the east. However, it is not clear that the western drains will be filled as per the Court Orders nor have borehole tests been undertaken to determine if the coffee rock has been breached and will require repair. In Section 3.2 (earthworks quantities) shows 64,569 m³ of fill to be imported. The Court required imported fill for the drains to be approved by the Authority. Council must ensure this is complied with. In Section 10 (Flood Emergency Management) there is mention of sea level rise and 9 hours of isolation being acceptable. For a subdivision of this size, this is unacceptable.

2. Terrestrial Flora and Fauna Assessment – Planit Consulting, August 2014 as amended by JWA Pty Ltd, July 2019 The koala assessment appears extremely brief. It does not cover all seasons. It is also based on the current regrowth which does not reflect the richness of the original vegetation which has been removed. The original vegetation would have sustained greater koala population. Hence remediation is required. Other fauna studies were too brief and the results not appropriate, as the original vegetation is not present. Planit Consulting report states that studies were carried out over 2 nights for 20 minutes, 5 nights for 70 minutes and 5 nights of continuous recording. The consultant admits that “seasonal surveys would also be necessary to detect flora species that are dormant” and “that the entire seasonal fauna assemblage is unlikely to be recorded”. It is also considered that the results are not as representative as they should be, as the regrowth does not provide the quality of vegetation as the original growth. “Figure 4 - Iron Gates broad vegetation communities” shows the large extent of the “disturbed communities” on which the flora and fauna assessments were undertaken. This renders the assessment questionable. The table in Section g) of the seven part test indicates that “clearance will be restricted to the areas of minor ecological significance”. However this assessment is based on the fact that this developer has previously cleared the land. The area must be rehabilitated as per the Court orders before this assessment can be truthfully undertaken. Even the calculations of the Biodiversity Offsets are based on illegally cleared land. Council must ensure that the Court orders for remediation are undertaken before consideration of this or any future DA. In the ecological assessment the developer’s consultant, when questioned by Council’s town planner about the encroachment into E2 and E3 zones merely say they will pay offset credit for the damage. This is not good enough E2 and E3 zones must be preserved.

3. Revised Aboriginal and Cultural Heritage Assessment – Everick Heritage Consultants, July 2019 It is noted that Jali LALC considered the area of high significance, particularly because of the activities at Gumigadah. Therefore Jali did not support the residential development so close to Gumigadah. In the recommendations of the consultants, no mention was made of the significance of the Gumidagah and Jalis’ opposition to the development. This appears to be a major flaw in the cultural assessment. Although the middens at 1G03 adjacent to Gumidigah are allegedly not to be disturbed as part of the project, I do not believe Jalis’ concerns have been addressed. The Wilsons appear to maintain opposition to the development; I believe their views have been given little consideration. I am also concerned that the significance of the massacre areas has been overlooked. I ask Council to review these matters.

4. Letters of advice - Mills Oakley, 16 October 2016, 23 October 2016 and 5 March 2019 re: Iron Gates Drive Mr Ingles has sought legal advice re the need for approval of the construction of Iron Gates Drive as part of an existing development application and the relevance of Council not accepting the road as an asset. The legal advice, if correct, appears to indicate that Council is already responsible for Iron Gates Drive as an asset. Does this mean that this deteriorating asset must be maintained by Council? Can the developer force Council to maintain the road. This could be a matter of concern for Council and its ratepayers. The advice indicates that the road can be approved as part of an approved DA and the submission of a Section 138 application under the Roads Act and this would negate the need for a Part 5 assessment under the EP&A Act. My concern relates to the fact that the Court in the Oshlack

case appears to have determined that the consent is void so legal construction of the existing road may be questionable. Without it being legal, a Part 5 assessment may be necessary. This would be a great benefit to the environment if the Part 5 is undertaken, given that the road is surrounded by sensitive E2 zone land. The anomalies in the legal advice need to be considered to ensure that the process is legal and ensures maximum protection to the environment.

5. Revised Biting Insect Impact Assessment – Mosquito Consulting Services Pty Ltd, 10 July 2019 It appears the Biting Insect Impact Assessment has shortcomings and conclusions that will have a long term impact on future home owners and Council. Once again the surveys are very limited, being over only 2 nights in March and only in 4 locations over the whole site. Despite the short survey period, 3,850 mosquitoes were collected and several thousand midges. The consultant acknowledges that there is no currently acceptable method for minimising biting midge breeding. Mosquito numbers are considered to be “not significantly more than in the general region”. It would appear that the area will be medically and socially uncomfortable for residents and a source of complaints to Council. The recommendations of buffers, street light modifications, design changes to stormwater management systems and distribution of advisory information to new residents are hopeful recommendations that are unlikely to help the health and social wellbeing of future residents and will be a source of ongoing complaints to Council.

6. Social & Economic Impact Assessment, Hill PDA, July 2019 Evans Head Urban Settlement Strategy was adopted by Council on 20 June 2006. The consultant acknowledged that it is outdated. Changes in community values over the last 13 years would most likely not support Iron Gates in its location, nor the population increase. The importance of retaining the “village” status is important on the North Coast as the character of other villages is lost with over-development. The financial benefits are questioned. In the 1996 construction phase of Iron Gates, 90% of the workforce came from outside the area. There was little benefit to the local community. With the construction of ensuing dwellings, from local experience, a high percentage of dwellings have been constructed by outside contractors. Furthermore, after the dwellings are occupied, because a high percentage of people have to drive to Lismore and Ballina to work, they are able to shop in those two larger centres. Of great importance the issue of ambulance, hospitals and doctors for acute care is not addressed in the DA. The application only makes reference to the new Health One facility which does not provide acute care. It replaces the former Evans Head Community Health centre which provides Community Nursing, Physiotherapy, Diabetes Education, Child & Family Health Nursing, Occupational Therapy, Speech Therapy, Counselling, Women’s Health, Podiatry, Drug & Alcohol Counselling, Dietetics & Nutrition and Community Rehabilitation services. Not part of the DA is my separate concern that the proponent is again Mr Ingles, the same Director who acted illegally in the previous DA and then failed to undertake the Remediation Plan as ordered by the Court in 1997. I have recently read an interesting article on illegal phoenix activity published by ASIC. This publication states that: ‘Illegal phoenix activity hurts sub-contractors, creditors and employees as they are left unpaid and out of pocket. It indirectly hurts the broader community because the company avoids paying tax and the government often has to subsidise outstanding employee entitlements. The Economic Impact of Potential Illegal Phoenix Activity Report found that illegal phoenix activity costs employees between \$31 and \$298 Million in unpaid entitlements and costs the government around \$1,660 million in unpaid taxes and compliance.’ I have no understanding of company law, but I would think that Council may wish to consider any implications of phoenix activity in this case of Goldcoral Pty Ltd and Iron Gates and the directors. A lot of people suffered severe financial loss such as surveyors, construction companies, electricians, plumbers etc when Graeme Ingles went into liquidation. And more importantly the environment that he had illegally interfered with suffered and was never remediated.

Conclusion My concerns on just some of the issues I have

examined as detailed in my submission above, clearly demonstrate why I strongly object to this Development Application. I hope that Council will seriously consider my concerns and recommend refusal of the Development Application DA2015/0096. Pam Love

URL: <https://pp.planningportal.nsw.gov.au/draftplans/exhibition/iron-gates>