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Submission

to

**The Hon Greg Hunt MP
Minister for the Environment**

and

**The Hon Robyn Parker MP
NSW Environment Minister**

on the

**Flawed environmental assessment
process under the TSC & EPBC Acts
Specifically related to the Pacific Highway upgrade**

Compiled for Clarence Environment Centre
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(Scientific licence - No SL 100126)

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Report on the flawed environmental assessment process under the TSC & EPBC Acts, specifically related to the Pacific Highway upgrade.

Introduction

The Clarence Environment Centre (CEC) has maintained a shop-front in Grafton for 25 years, and has a proud history of environmental advocacy. The conservation of the Australia's natural environment, both terrestrial and and marine, has always been a priority for our members, and we believe the maintenance of healthy ecosystems and biodiversity is of paramount importance.

However, time and again we are thwarted in our attempts to protect high conservation value ecosystems by a badly flawed assessment system that totally ignores the impacts of an action at a landscape level.

For this report we will focus on the environmental assessment of one relatively small forested area about to be destroyed for the Pacific Highway upgrade in the Clarence Valley, a few kilometres south of the village of Tyndale. We should note that this is just one of numerous such high conservation value forests similarly impacted by the upgrade along the entire highway alignment between Sydney and Brisbane.

Background

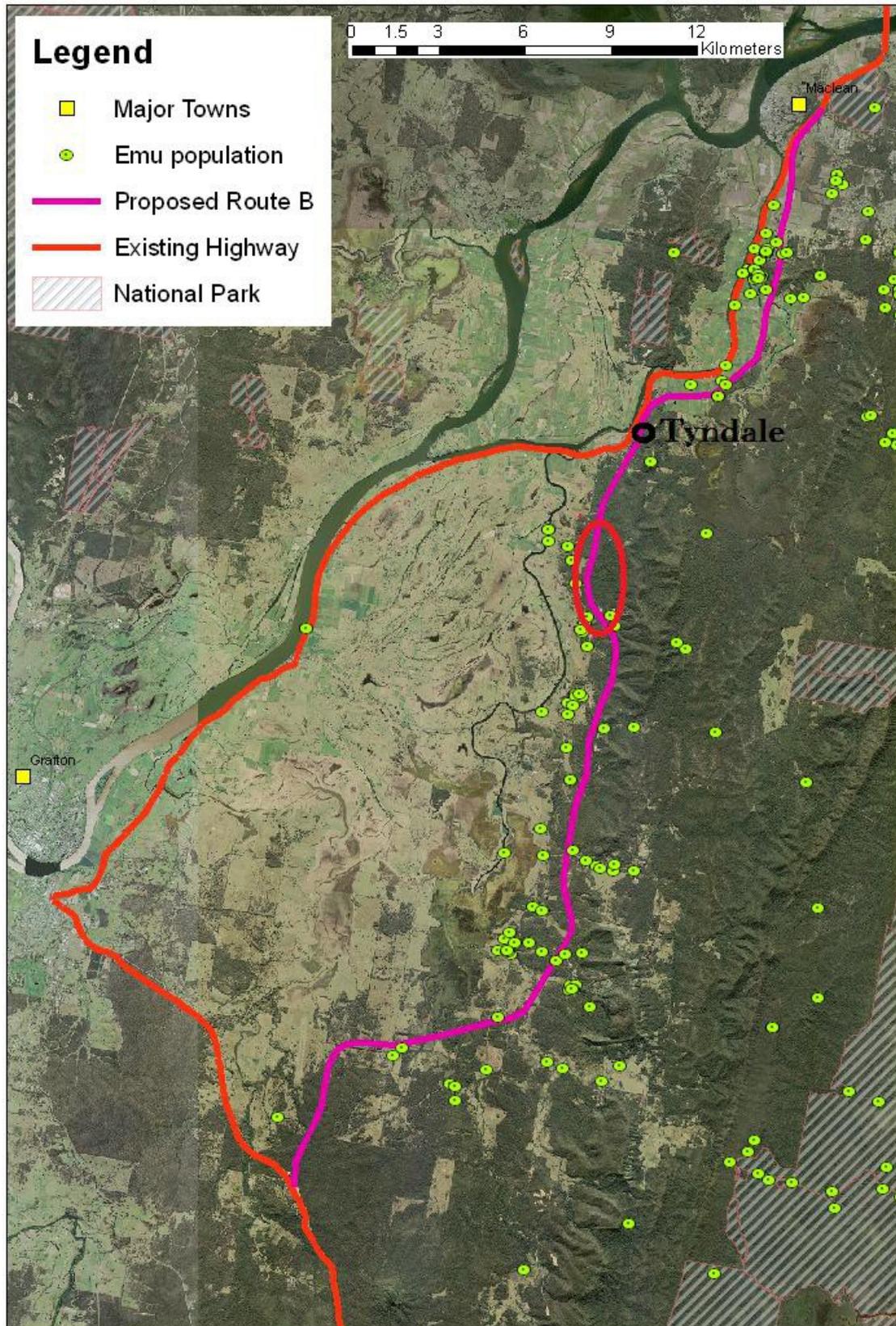
The Centre has had a close involvement with the planned Pacific Highway upgrade, firstly some eight years ago when the Wells Crossing to Iluka Road section was planned; followed by the 7km Glenugie section; then changes to the route at Shark Creek, which moved the original alignment adjacent to the existing highway into native forest to the east, and finally the current expanded Woolgoolga to Ballina upgrade.

In all we have written dozens of submissions and letters on various aspects of the proposal, and have always asserted that the environmental impacts of the proposed route are unacceptably high. The RMS's decision to construct a motorway along large sections of the Woolgoolga to Ballina route, additional to the existing highway has added significantly to that high environmental impact, while also adding enormous costs compared to a simple upgrade of the existing road to 4 lanes. As well, the planned motorway will provide few if any benefits to the valley's residents and businesses, while placing enormous additional costs onto Clarence Valley Council when it inherits the upkeep cost of some 80km of the current highway.

We have always stressed that building a motorway across the Clarence Valley, where "Route 1" traffic volumes are lower than anywhere else between Warnambool and Gympie, benefits only the road freight transport and construction industries. The billions of dollars that would be saved by dropping these grandiose plans could have been spent on widening the current highway, and upgrading the freight rail system to take dangerous heavy road transport vehicles off the road.

We also claim that the proposed upgrade/deviation, particularly the Woolgoolga to Ballina section, directly contravenes the RMS environmental policy that states: "*When managing biodiversity, RMS aims to: Avoid and minimise impacts first.*" In fact the RMS has provided a route that appears to seek out forested country as it meanders across the valley (see map below).

Of the 145 submissions received by the RMS to its EIS, only 3% supported the project while 52% objected (the remainder provided neutral comment). So this report has been prompted to a large extent by the RMS's off-hand rejection of all concerns raised in those scores of submissions. It was also prompted by the concerns raised by residents further north over the proposed destruction of hundreds of hectares of prime Koala habitat.



The above map shows the current highway (orange) and proposed route (purple), where they cross the Clarence Valley from Glenugie to Maclean. The way the purple line winds across the landscape, seemingly seeking out forests for destruction, says it all, while the green dots are records of the endangered population of Coastal Emu, whose habitat is to be dissected by the 150m wide corridor.

Environmental impacts in the Clarence Valley

As stated earlier, this report will focus on just one small forest area south of Tyndale, approximately shown by the red oval on the above map. So what values does that forest contain?

Firstly there is a significant area of old growth forest, something that is protected against logging, or normal development. The occurrence is acknowledged in the 1,343 page 2012 Biodiversity Assessment which claims (page 379) that: *"Much of this habitat occurs on sandy soil that is identified as having a high density of hollow-bearing trees and generally higher fauna species richness. This habitat includes a range of old growth forests with minimal evidence of past logging particularly between Pine Brush State Forest and the interchange at Tyndale."*

Later, there is a discussion (page 564) about the threats to that forest through "habitat fragmentation", identifying that the forest, *"would traverse the western foothills of the Summervale Range from Pillar Valley to Tyndale and this route **would fragment remnant open forest habitats in moderate and high quality condition over a distance of around 23 kilometres**"*.

The 2012 Biodiversity Assessment for the Clarence Valley is based on flora and fauna surveys undertaken in about 2006 for the earlier Wells Crossing to Iluka Road upgrade. cursory flora and fauna surveys, such as those undertaken in 2006, can possibly identify all threatened species that occur, so consultants rely to a great extent on existing NSW Wildlife Atlas records.

One species that was not sighted during the 2006 ecological surveys, which now form the basis for the current 2012 Woolgoolga to Ballina Biodiversity Assessment, was the endangered Giant Dragonfly. Because there were no Atlas records of the species in the Clarence Valley, the consultant (SKM) identified the depressing fact that, *"there is a minimal potential of it (the Dragonfly) being present in the project boundary"*, pointing out that: *"The majority of wetland areas in the lower catchment, such as those on the Clarence floodplain illustrate degradation as a result of land clearance and stock access"*, concluding that: *"**Such wetlands are unlikely to hold populations of the Giant Dragonfly given that degradation of wetland habitats is thought to be a contributing factor in its decline, and the absence of records on the Clarence floodplains.**"*

However, in 2009, multiple sightings of the dragonfly were reported by a resident south of Tyndale in the vicinity of the proposed route, providing photographs of both male and female specimens. That photographic evidence was sufficient for the Australian Museum to confirm the specie's identification, and the Office of Environment and Heritage confirmed to us that: *"The sighting was entered into our system (the NSW Wildlife Atlas) on 3 December 2009 and accepted as valid. Notes include that it was identified by Gunther Theischinger. Gunther works for OEH in the Water & Coastal Science Section, based in Lidcombe"*.



Photograph of Giant Dragonfly recorded south of Tyndale

Our 2012 submission made specific mention of the new record, but if we expected any sign elation from the RMS over the fact that, against all odds, this highly endangered species had managed to survive the ravages of human advances over the past 170 years, we were to be disappointed. Instead the RMS responded (Responses to Submissions, chapter 2, page 115) that:

“The Giant Dragonfly was considered in the previous assessments for the Wells Crossing to Iluka Road project ..., **It should also be noted that this record did not appear on the NSW Wildlife Atlas database which were consulted as part of the EIS assessment**”. Of course that database consultation had taken place in 2006.



Undescribed Beard Orchid

The story of extreme ecological significance does not end there. In late 2013, close to where the dragonfly was recorded, an undescribed Beard Orchid (*Calochilus sp*), was identified, a species never recorded before, and likely occurs nowhere else in the world.

Also found along the same section of forest is a population of a newly described Black thorn species (*Bursaria cayzerii*), another

species that is only known to occur at 8 sites, and only in the Clarence valley, which would undoubtedly qualify for listing as a threatened species, given there are few known specimens growing in conservation reserves, and is now under threat from the highway upgrade.



Rare, newly described *Bursaria cayzerii*

The NSW Wildlife Atlas records show that the same forest supports population of endangered *Quasia* species Moonee Creek; vulnerable *Grevillea quadricauda* (Four-tailed Grevillea), one of only 2 populations known to occur in NSW; endangered *Lindsaea incisa* (Slender Screw Fern); a vulnerable wetland species, *Maundia triglochoides*, and Vulnerable Broad-leaved Sandstone Apple (*Angophora robur*), facts acknowledged by the RMS.



Endangered *Grevillea quadricauda*



Endangered *Quasia* species Moonee Creek

A short inspection of the area by independent experienced ecologists also identified other threatened or unusual species including the vulnerable sedge, *Eleocharis tetraquetra*, and a rare white-flowering form of *Artemisia fimbriatum*.

In summary, this forest is a veritable treasure trove of biodiversity, with many species growing only in the Clarence Valley, or in the Tyndale area.



A rare white flowering form of *Artenema fimbriatum*



Eleocharis tetraquetra

In Conclusion

The consultant acknowledged that tree-hollows in the old growth forest in question support "*fauna richness*", specifically identifying eleven threatened tree-hollow dependent species as occurring there (see Appendix A below). The consultant has also acknowledged the occurrence of twelve other threatened fauna species, four threatened flora, and two Threatened Ecological Communities.

Add to that the yet to be considered species identified above as occurring in that old-growth forest, and the significant number of species considered "likely to occur", and **there can be no justification for clearing a 150 metre wide corridor through it, or to construct the proposed service hub which doubles that width of destruction.**

Yet, by assessing the impacts of individual species in isolation, as the law currently allows, the RMS can completely ignore the incredible diversity and the high conservation value it has when considered collectively.

The RMS claims: "*The project has incorporated the principles of ecologically sustainable development (precautionary principle, inter-generational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms), in particular considering biological diversity and ecological integrity in decision making, to the extent possible. The principles of ESD have also been considered in the assessment of the project's benefits and potential adverse effects. Throughout the project, environmental issues have been afforded equal importance along with economic and engineering issues*". **We totally disagree!**

The species identified in the small area south of Tyndale are just some of the total 125 threatened species, and 337 hectares of Endangered Ecological Communities (EEC) that have similarly been treated with disdain by the RMS, when assessing the impact of the Woolgoolga to Ballina upgrade. The habitat fragmentation that will be caused by the indiscriminate bulldozing and fencing of a 150m wide corridor through native forests, which make up the bulk of the planned route, is just an added threat to the ultimate survival of these species. Here are some examples of just how that assessment worked in this instance.

- **Endangered Giant Dragonfly** - The Response to our submission is entirely unacceptable. Despite our alerting RMS of the existence of new Atlas records, the RMS still claimed: "*This species was not detected during field surveys (undertaken 6 years earlier), and: "It should also be noted that this record did not appear on the NSW Wildlife Atlas database which were consulted as part of the EIS assessment", and therefore won't be considered.*

- **Squirrel Gliders** - Despite conceding that: *“The long-term persistence of gliders requires a landscape mosaic of old growth trees and tree diversity which meets both their foraging and sheltering needs”*, the RMS never considers altering the route to avoid the impact of clearing a huge swathe through old-growth forest. The RMS makes the claim (page 685) that: *“The widening of the existing Pacific Highway in some areas would exacerbate the current barrier effect of the highway on regional and local populations of these glider species”*. This frequently 'cut and paste' comment ignores mention of the fact that the Summervale Range population, south of Tyndale, will be impacted by a completely separate motorway, not just “exacerbated” by the widening of an existing roadway. As it is, the landscape connectivity problem, caused by a 150m wide clearing through the Glider's habitat, is to be solved by overhead wires, and the loss of thousands of tree hollows offset by a few dozen nest boxes that will be reduced to ash in the first bushfire.
- **Endangered Coastal Emu population** – The numbers of Coastal Emu are now considered to have dropped to possibly less than 100 birds. Mapping (see above) clearly shows the highway route cutting through the heart of their known range for a distance in excess of 40kms. The RMS admits there is: *“Potential for significant impact to the endangered Coastal Emu population”*, but only provides a single dedicated Emu crossing point, a 4m high culvert that nobody can guarantee the Emus will use. All the other Emu crossing points identified by the RMS are road and river bridges. Suggesting road bridges double as Emu crossings, thus channelling Emus and traffic together, is clearly a recipe for disaster, but the RMS seems completely unmoved at the prospect of the possible extinction of a population, and determined to press ahead anyway.
- **Grevillea quadricauda**. The Biodiversity Assessment concedes that: *“The potential impacts of the project would result in the removal of a high proportion of individuals (62.5 per cent) from the northern population with only three individuals occurring outside of the project boundary”*. This is a species that is only known from two small populations in NSW, yet again there is never any suggestion of moving the alignment, something that could easily be done. Some of these rare and threatened shrubs have already been trampled by surveyors and their vehicles - the RMS simply doesn't care.
- **Endangered Swamp Sclerophyll Forests Community**. The Biodiversity Assessment reports that 75% of this groundwater dependent ecosystem has been destroyed over the past 170 years of European Settlement, and we know that much of what remains is in a degraded state due to grazing, excessive burning, weed invasion, and other edge effects. We are told that a total of almost 150 hectares of this endangered forest community will be destroyed by the upgrade, and significant additional areas will suffer further degradation through fragmentation and weed invasion. Yet again no changes to the route have been made to avoid that devastation, only agreeing to purchase “off-set” land where the ecosystem already exists, and placing a conservation covenant on the land. This of course results in a net loss the 150 hectares being cleared for the upgrade, and provides little additional protection to the off-set area (land under conservation agreements is not protected against critical infrastructure provision or mining).

There are some 125 threatened species, and 337 hectares of six different EECs similarly dismissed by the assessment process for the Pacific Highway upgrade between Woolgoolga and Ballina. In the Richmond Valley equally disastrous alignment choices will have devastating impacts on Koalas, and Long-nosed Potoroos.

The Pacific Highway needs to be upgraded for safety purposes, but the grandiose, empire building motorways, with no questions asked by our regulators, simply cannot be justified. Had the much cheaper option of simply upgrading the existing highway to four lanes, with appropriate straightening and bypassing of smaller rural communities been adopted, we believe the work could have been funded long ago and most of it now completed.

Negotiations for land acquisition between Glenugie and Tyndale has only just begun, so we believe it is still not too late to rethink this proposal, so we urge relevant Ministers, State and Federal, to urgently consider the issues raised in this report.

Yours sincerely

John Edwards
Honorary Secretary.

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APPENDIX A

The consultant acknowledged that tree-hollows in the old growth forest south of Tyndale support "*fauna richness*", specifically identifying those supposedly protected threatened species as follows (V = Vulnerable; E = Endangered):

<i>Ninox strenua</i> Powerful Owl - V.	<i>Chalinolobus nigrogriseus</i> Hoary Wattled Bat - V.
<i>Falsistrellus tasmaniensis</i> Eastern False Pipistrelle - V.	<i>Miniopterus australis</i> Little Bentwing Bat - V.
<i>Miniopterus schreibersii oceanensis</i> Eastern Bentwing Bat - V.	<i>Mormopterus norfolkensis</i> Eastern Freetail-Bat - V.
<i>Myotis macropus</i> Southern Myotis - V.	<i>Nyctophilus bifax</i> Eastern Longeared Bat - V.
<i>Saccolaimus flaviventris</i> Yellow-bellied Sheathtail Bat - V.	<i>Scoteanax rueppellii</i> Greater Broadnosed Bat - V.
<i>Vespadelus troughtoni</i> Eastern Cave Bat - V.	

As well, the consultant acknowledged that the following, non hollow dependent threatened fauna species also occur:

<i>Pteropus poliocephalus</i> Grey-headed Flying-Fox - V	<i>Dromaius novaehollandiae</i> Coastal Emu Population - E
<i>Climacteris picumnus</i> Brown Treecreeper - V	<i>Melithreptus gularis gularis</i> Black-chinned Honeyeater - V.
<i>Pomatostomus temporalis temporalis</i> Grey-crowned Babbler (estn ssp.) - V.	
<i>Aepyprymnus rufescens</i> Rufous Bettong - V.	<i>Petaurus australis</i> Yellow-bellied Glider - V.
<i>Petaurus norfolcensis</i> Squirrel Glider - V.	<i>Phascogale tapoatafa</i> Brush-tailed Phascogale - V.
<i>Planigale maculata</i> Common Planigale - V.	<i>Crinia tinnula</i> Wallum Froglet - V, and
<i>Pteropus alecto</i> Black Flying-fox - V.	

Also acknowledged was the fact that that forest contains the following threatened flora:

<i>Angophora robur</i> Sandstone Rough-barked Apple - V.	<i>Grevillea quadricauda</i> Four-tailed Grevillea - V
<i>Lindsaea incisa</i> Slender Screw Fern - E	<i>Maundia triglochinos</i> - V