

31 July 2020

Hon Warren Entsch MP  
Chair  
Joint Standing Committee on Northern Australia  
PO Box 6021  
CANBERRA ACT 2600

Dear Mr Entsch

### **Inquiry into destruction of Aboriginal heritage sites at Juukan Gorge**

Thank you for the invitation to make a submission to this inquiry.

We would like to address two particular points in the Terms of Reference.

(g) the effectiveness and adequacy of state and federal laws in relation to Aboriginal and Torres Strait Islander cultural heritage in each of the Australian jurisdictions;

(h) how Aboriginal and Torres Strait Islander cultural heritage laws might be improved to guarantee the protection of culturally and historically significant sites;

## **Introduction**

Our battle to save the Awabakal Women's Butterfly Cave began after the land on which this sacred site is located was sold to Roche Group/Hammersmith Pty Ltd . We learned the developer planned to backfill the Cave to facilitate the development of the Appletree Grove housing estate.

Essentially, we are a small group of Aboriginal and non-Aboriginal women taking on the power of a billionaire family business Roche Group/Hammersmith Pty Ltd (2020 Imelda Roche \$1.48 billion).

Our battle has been long and hard. We have never been supported by the State or local council. We have had to fundraise to secure legal advice. We have met with representatives of government over and over again, and the site is STILL at risk.

It is fair to say that the 10-year battle to protect a small piece of bushland that contains a site of enormous significance to Aboriginal women has taken a toll on us emotionally, mentally and spiritually.

We feel that if we fail to protect the site, we will be letting down future generations of Aboriginal women who will lose a precious link to their past, and their future.

Legislation needs to be introduced that is capable of protecting heritage sites and the process to protect them needs to be streamlined, accessible and user-friendly. Currently, it is none of those things.

## Background

The Butterfly Cave is a traditional Awabakal women's place located on the eastern fringes of West Wallsend, NSW. It is highly significant to women and has been used for women's business and ceremonial purposes since pre-contact. It continues to be an elemental part of Aboriginal women's cultural wellbeing.

Awabakal means people of Awaba— which in ritual language means Lake Macquarie. Pre-contact, there were four Awabakal clans with each respecting territorial boundaries—but meeting for social and ceremonial occasions.

Historical written records note that traditional Awabakal were a very spiritual and moral people with a high level of honesty and respect for their elders. They doted on their children. Important decisions were made by all adult members; men and women.

After 1837, the number of Awabakal was substantially reduced by disease and massacre but many descendants recognise the significance of Traditional Awabakal Country.

## Significance of the Butterfly Cave environs to Awabakal women

In order to properly understand the importance of the Butterfly Cave and surrounding bushland to Awabakal women of the past, present and future the significance of the site must be recognised and affirmed. The Cave is a key focus of cultural activity for women and remains a constant connection to practices and ancestors (as it has done since pre-contact).

- The area was a traditional meeting place for Aboriginal women [REDACTED]. It was [REDACTED] area, safe from the view of strangers.
- The Butterfly Cave is located near to the main camp and offered women privacy and easy access to resources, including water.
- The place is an area of natural beauty where the elements of vegetation and natural springs add to and create a highly aesthetic landscape. The place offers visual links to other significant landmarks across the region such as Mt Sugar Loaf.

[REDACTED] Women believe the journey to the Cave is highly significant as it allows them to walk in the footsteps of their ancestors. It is an ancient journey path that provides a direct connection to their culture— meandering through pockets of bushland adjoining a creek line. This bushland is a rich source of food, [REDACTED]

- The area was and remains a place of education and a resource rich place where children and young people learn from elders about traditional practices, [REDACTED]. It is a significant element of the SistaSpeak program which connects Aboriginal girls to culture.



- The area continues to act as a bush school room, where children learn about their history, spiritual connections and the natural vegetation and wildlife that has provided a source of bush foods for many generations.
- Plant resources nearby still can harvest [REDACTED].
- The bushland around the Cave is still used as a place for spiritual connection and education of Aboriginal and non- Aboriginal people, especially of the young girls and women.
- There is a sense of spiritual presence *around the Cave* and this is supported by both the Aboriginal and European communities as being very special.

**“Heritage places are not spaces drawn on maps, but exist as meanings, memories and knowledge shared by communities”**

The proposed development footprint will destroy many hectares of bushland rich in resources women traditionally used and continue to use today. These resources include, but are not limited to:

- Lemon Scented Tea Tree *Leptospermum peterson*— For colds & flu’s, when a tea is made. Also used for cuts and sores. (Lie the leaf over the cut or sore)
- Broad Leaved Geebung *Persoonia levis*—Good source of vitamins as well as used for cuts and sores. (Lie the leaf over the cut or sore)
- Narrow leaved Geebung *Persoonia linarifolia* —Same as *Persoonia levis* healing qualities.
- Common Lilly Pilly *Acmena smithii* —Good source of vitamins, minerals and protein.
- Prickly paperbark *Melaleuca styphelioides* — For colds and flu’s, when made into a tea.
- Flax leaved paperbark *Melaleuca linarifolia* —Another plant used for colds and flu’s.



## Why women’s sites are so important

**This is information we have provided to State and Federal government departments in our fight to save the Cave.**

While measureable outcomes for many Australian women have improved exponentially since settlement, there is still much work to be done on equality and social justice. This is particularly true for Aboriginal women who continue to be marginalised and suffer the consequences of discrimination and disadvantage.

When compared with other women in Australia, Aboriginal and Torres Strait Islander women are considered the most socially and economically disadvantaged and have the poorest health status.

Contrary to the opinion of early anthropologists, Aboriginal women’s status was traditionally equal and complementary with that of men in most Aboriginal



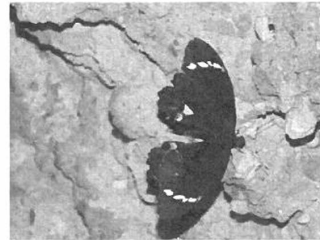
cultures. Women played significant roles as food providers, in nurturing and rearing children, caring for health and wellbeing, leading women's religion and ritual, transmitting knowledge down the generations of women and as custodians of country and sacred sites.

This status was altered during the 19th century by the destructive forces of colonisation; dispossession of land and resources and destruction of life and culture and colonists' prejudices looking at Aboriginal women through the prism of race and gender. As a consequence, women's sites were frequently overlooked and unreported.

Awabakal women are fortunate that the Butterfly Cave has been acknowledged and, until recently, has been protected by tracts of bushland ensuring women can privately engage in cultural practice. The paucity of other recognised women's sites in the local area increases the significance of the Butterfly Cave and provides another reason why it must be protected in perpetuity.

**“Ultimately, any significance test must acknowledge significance to the people who identify with the heritage object or place”**

As a proud Awabakal Woman I hope my voice is heard loud and most heartfelt. I am asking, if not begging for the protection of my Fore Mothers Cave. This has already been approved as a sacred site and I would ask the powers that be that we all work on saving it from destruction and keeping the natural surrounds as a boundary to protect her. I have cried many tears for a cave I have never visited, for a place that holds great meaning to the woman of my family, and once was a place of learning of Women's business...a place where I am sure many from my lineage were born before me, how can this not be sacred enough to be saved. Tears fall again from my eyes as I write this message as these are not just words but my bulbul (heart) crying out in anguish to try to save the Baiyang-baiyaang Cave and I do not understand how or why this is not important enough for the NSW Government to Save. Please help, please care enough about Sacred Women's Business, let this be a place where we as Indigenous Women may go again and learn our secrets in a safe place, freely.



Rebecca [REDACTED]

Awabakal Woman- descendant of Mar-rah-kah

Please save the Butterfly Cave, I am an Awabakal descendant and want to pass the knowledge and the cave to the next generations, as it is an important part of our culture.

Margaret [REDACTED]

**My name is [REDACTED]** and I am a direct descendant of Mahrahkah, an Awabakal woman. The Butterfly Cave is not only a place with sacred, social and cultural meaning where women's business is held but also a site with historical value. I do not believe that it is fair that a natural site like this one should be ignored and be left to be damaged. It has been recognised as an Aboriginal Site which means that it is protected under the National Parks and Wildlife Act 1974, therefore it is an offense to damage or destroy it. However, the development taking place near and around the cave is directly harming the surrounding

environment as well as the cave itself. If this is allowed to continue then eventually there will be no sacred site left. It would be a shame and disappointment to see the destruction of this Aboriginal site continue as it has been passed down through generations of Awabakal women and allows us to have a connection to country and our culture.

**My name is** [REDACTED] and I am an Awabakal woman. I have personally visited the Butterfly Cave, and am greatly saddened at the prospect that my daughters and granddaughter may never get the same opportunity.

Walking to and from the cave with other women, of all ages, sharing knowledge and learning about culture - as well as spending time at the cave itself, talking about and imagining our ancestors there is vital to us. One might compare it to a Memorial, similar to ones built for the ANZACs, of whom my great uncle was one.

As Awabakal women we are not asking for hundreds of thousands to build a Memorial, we are simply asking that the one we already have be respected and preserved.

The Butterfly Cave was the first women's Place of Significance recognised in NSW - that alone should indicate it's monumental importance to our culture, both currently and to future generations.

Please, please help us. Once destroyed, this link to our Grandmothers can never be rebuilt, please show the Local Government can be reasonable in this situation.

Hi Sisters and Brothers and Aunts and Uncles.

I believe that if the Butterfly cave is destroyed then they may well go up to Kakadu and Uluru and start destroying them too. Because the Butterfly cave has just as much significance as them if not more because it is a life giving sacred sight.

I believe in my ancestor's and I believe they will come down on those who intent to play god with our Sacred Sights "like Ghidachie Men" or the bone. So they need rethink of what they are going to do.

[REDACTED]  
**Nanama Gin**  
**Yuin Nation (mother) & Central West Wiradjuri Nation (father)**  
**(Koori) Aboriginal Caseworker/ Child Protection**  
**Muswellbrook CSC**

**I am writing to ask that** the Australian Government step in and stop Stages 7 and 9 of the Appletree Grove Estate near West Wallsend in the Hunter area, which is a matter of urgency to save our Awabakal women's sacred site - This site has been recognised by the NSW govt as a significant Aboriginal Place. In fact, our site is the FIRST Aboriginal women's site recognised thus you can imagine it's importance to the Awabakal women and non-Indigenous women of our area.

It is important to stop these development stages ASAP until we can ensure that the Butterfly Cave—and its contextual songline bushland setting—is properly protected and to also ensure Awabakal women unfettered access the Cave via the traditional pathway.

It is essential the surrounding land be acquired from Roche Group as they have been demonstrably unable to accommodate to the cultural and spiritual practices of Awabakal women and have been unwilling to negotiate a reasonable outcome to ensure that our cultural and spiritual knowledge, songlines and our connection to the spiritual waters and bushland which are just as important and spiritually/culturally as significant as the actual cave structure. Please note - the water aquifers have already been damaged by this developer causing great anguish.

Your consideration of this request is appreciated and I look forward to learning of positive steps taken by the government to protect the Butterfly Cave in perpetuity. Please, I ask that you help me and my Awabakal sisters and community to save our beloved sacred site "Baiyang Baiyaang" - The Butterfly Cave. We have lost so much of our culture already and this women's cave is essential for the continued passing down of connection to our land, our culture and knowledge and for the general wellbeing of our women who need a place of serenity and safety to practice culture. Please, we are running out of time, Stage 7 is about to go up for approval very soon.

[REDACTED]  
**Direct Descendant of Mahrahkah  
Awabakal Descendants Traditional owners Aboriginal Corporation.**

"Tittalik/Roche the story of a man named Roche who cared little for Awabakal women and their feelings. Tittalik/Roche through all his greed decided to take all the land surrounding a special cave. A sacred Awabakal womens cave. Baiyang baiyaang-koomerii The Butterfly Cave. He destroyed all the bushland around the cave. The Awabakal women were in a desperate dilemma and called a petition to discuss their situation. The large gathering came to the conclusion could they get Tittalik/Roche's mouth open long enough to talk to the Awabakal women about the Butterfly Cave and its significance to their heritage. Their was NO discussion so little progress. The Awabakal women REFUSED to give up and began to climb the hill towards Tittalik/Roche. One by One the women joined together. Tittalik/Roche could no longer ignore the women. Thousands are now involved to SAVE the SACRED cave. The story of Tittalik the frog was passed down by the Awabakal people as a firm lesson in highlighting the evil of GREED and SELFISHNESS. Tittalik was turned to stone to remind all those that followed his mistake. Mr Roche DONT be like tittalik. SAVE our Butterfly Cave. Give up a few houses for a bigger buffer zone .YOU can SAVE a SACRED SITE.

**Written by [REDACTED] Awabakal Woman**

I am the senior woman of the Gubbi Gubbi Tribe (Sunshine Coast Queensland). Politically the voices of Aboriginal women are not being heard – Noel Pearson is not a leader for all of us nor is he female, and the other Aborigines advising the government are all males. Aboriginal women need to demand that our women have senior places on government committees so that matters and areas important to our women are given political support . I support you to save The Butterfly Cave.

[REDACTED]  
**Gubbi Gubbi Elder**

My name is [REDACTED] and I identify as Aboriginal. I am from the Yorta Yorta tribe and feel strongly about our culture. I believe the way of life is changing in so many ways in todays modern world that it is so important to keep our culture and

land within our aboriginal communities in close contact. We are loosing so much of our culture within our younger generations through modern changes. It is very important to me that we keep our culture and land and its importance going so that we can hand down our knowledge to future generations.

Rumbalara [REDACTED]

## 2013 | First Aboriginal Place declaration – NSW Government

We believed we were successful when the NSW Government made a declaration to protect the Butterfly Cave.

Site GBD-RS-1 (Butterfly Cave) is an Aboriginal Place declared under s.84 of the National Parks and Wildlife Act 1974. In 2013, the Butterfly Cave was gazetted as an Aboriginal Place because it holds strong cultural values to the contemporary Aboriginal community as an Aboriginal women's place.

Unfortunately, and for reasons that have never been satisfactorily established, the bushland surrounding the Butterfly Cave was not incorporated into the Aboriginal Place at the time of gazettal. The failure to incorporate resource-rich songline bushland, including the highly crucial journey to the Cave, has caused Awabakal women considerable distress and has been the basis of an ongoing campaign to have the wider contextual bushland recognised as being significant to women and in need of Government protection.

This AP was by far the smallest area ever granted for a site in NSW.

The failure of the developer Roche Group and various NSW Government departments to negotiate a better outcome for Awabakal women forced us to make another application for protection under NSW legislation.

## 2016 | Aboriginal Place extension application – NSW Government

In December 2016 women made a further application to OEHL requesting that the AP boundary be extended to incorporate the cultural elements that would be lost if stages 7 and 9 of the Appletree Grove Estate were approved.

This application was supported by a large number of Aboriginal and community organisations, with submissions forwarded to OEHL for consideration.

This application was formally refused but the refusal failed to indicate *why* the application was dismissed.

**A barrier to OEHL's assessment of this application appears to be the Department's historical failure to negotiate positive outcomes for Aboriginal sites in the absence of landholder agreement. It is our understanding that the NSW Government has never gazetted an Aboriginal Place that involved challenging or negotiating a dissenting landholder.**

Until such time as the NSW Government implements "stand alone" legislation to protect Aboriginal heritage sites in the state, it will continue to fall to the Federal Government to act in the best interests of Aboriginal people in NSW.

## Failure of the NSW Government to protect the Butterfly Cave site and environs

Australian governments acknowledge that harming objects of social, cultural and historic value to Aboriginal people, intentionally or not, has the "tendency to perpetuate the 'national legacy of unutterable shame' caused by the dispossession of Aboriginal persons from their lands as a consequence of colonisation". The NSW Government demonstrates awareness of this in policy – for example:

**The Vision statement for Aboriginal Affairs states:**

Aboriginal Affairs works with Aboriginal communities to promote social, economic and cultural wellbeing through opportunity, choice, healing, responsibility and empowerment.

**The Core Values:**

We value Aboriginal cultures.  
We embed Aboriginal voices into our work.  
We promote Aboriginal people's rights and interests.  
We promote healing and respect.  
We recognise Aboriginal leadership and empowerment

Furthermore, the NSW Office of Environment and Heritage (OEH) has produced a series of booklets describing the cultural attachment Aboriginal women have to their local landscape— despite this, as the approval authority staff tasked with assessing the Butterfly Cave Aboriginal Place nomination, staff failed to nominate an acceptable and sustainable "protection zone" around the Butterfly Cave and as such the integrity of the entire place is at risk.

Women have argued since 2013 that, despite the swelling number of documents created to recognise and protect Aboriginal culture in NSW, the NSW Government has abrogated responsibility for protecting the Butterfly Cave and this has been publicly documented on many occasions. An example: **Penny Sharpe MP addressing Minister Speakman at Budget Estimates 2 September 2016**

The Hon. PENNY SHARPE: I would like to ask you about a heritage matter. It is difficult, but I think it is important. Are you familiar with the Butterfly Cave?

Mr MARK SPEAKMAN: Yes.

The Hon. PENNY SHARPE: You know that there are very considerable concerns by Aboriginal women across the Hunter in relation to that site and the ongoing preservation of that site?

Mr MARK SPEAKMAN: Yes.

The Hon. PENNY SHARPE: What action have you taken to try to sort out the issues surrounding the Butterfly Cave to ensure that it is appropriately preserved?

Mr MARK SPEAKMAN: Before I became the Minister it was declared an Aboriginal place with a 20-metre curtilage in 2013. I am advised that that curtilage was the result of negotiations between the Aboriginal community at the time, the Office of Environment and Heritage [OEH] and the developer. This year—it may have been last year—I met with the Aboriginal women, with Minister Williams. I have also met the representative of the developer with Minister Williams. I think the member for Cessnock was present at both those meetings. I have informed—or caused OEH to inform—the developer that even if it is undertaking activity



off site, the National Parks and Wildlife Act prohibits damage to the Aboriginal place. So the fact that drilling activity for a new development might be off site does not mean that it would not be a potential offence were it to damage or harm the Aboriginal place. I am aware that Lake Macquarie Council does not propose to give consent to the development nearby until there is a geotechnical report that demonstrates that there will be no damage to the Aboriginal place. I have explored the possibility of a land swap to see whether there is any Crown land that might be available.

The Hon. PENNY SHARPE: Swap?

Mr MARK SPEAKMAN: A swap for the developer. I have been looking at whether there is any possibility, for example, that we could swap land owned by the developer outside the 20-metre curtilage near the Aboriginal place, but I am told that there is none suitable. I think we have approached Lake Macquarie City Council on an informal basis about that; there is none suitable. One possibility is for the Awabakal Land Council to identify land that it might own to swap with the developer.

The Hon. PENNY SHARPE: You are asking the local traditional owners whose very special site is in danger to give up their own land to a developer, as an option?

Mr MARK SPEAKMAN: Here is the difficulty. Before my time—in 2013—an agreement was struck that protected this Aboriginal place. It declared the caves an Aboriginal place with a 20-metre curtilage. The developer is now being asked to revisit that and give up some of its property rights, although it had already struck a bargain in 2013. There is an element of sovereign risk where we now say to the developer, "Ha, ha, we caught you out. You reached an agreement in 2013. We are going to impose something different upon you." We do not have the funds to buy up nearby land.

## **Efforts by women to seek resolution via NSW State Government**

Women have been proactive in seeking assistance from the NSW Government to protect the Butterfly Cave and surrounding bushland from the Appletree Grove Estate development.

### **Example:**

- On 20 November 2015 a delegation of women met with Leslie Williams, Minister for Aboriginal Affairs, in the office of Cessnock MP, Clayton Barr. At this meeting women explained to the Minister and her adviser, in a frank and respectful manner, the concerns they held for the Cave. Unfortunately, Minister Williams has been unable, or unwilling, to provide any assistance to women and has consistently indicated that the matter falls outside her portfolio (and is a planning matter).
- In March 2016 a delegation of women met with the Mark Speakman, Minister for Environment and Heritage, and Leslie Williams, Minister for Aboriginal Affairs, at Parliament House, to argue the case for NSW Government intervention. Planning Minister Rob Stokes – who apparently holds a degree of responsibility for this matter, was slated to attend the meeting, but did not attend.

- At the meeting women discussed, in culturally appropriate detail, why the Butterfly Cave must be saved. They argued that significance of place to Aboriginal people is paramount, but **does not just rely** on the presence of artefacts or visible evidence. Women explained that the bush is alive with the echoes of ancestors and Roche Group needs to recognise that the journey *to* and *from* the Butterfly Cave is as crucial to Awabakal culture as the Cave itself. Accordingly, the bushland around the Cave itself needs protection. They expressed deeply held concerns that isolating the Cave will destroy the journey for Awabakal women who today walk in tracks left by their ancestors. It will remove vegetation that is an integral part of their journey. It will deprive women of privacy and the opportunity for girls engage with their culture.

Unfortunately — since that meeting—neither Minister Speakman nor Minister Williams, or their advisors or staff, has made ANY contact with ANY representative of the delegation. The failure to contact women via email, telephone or letter is a strong indicator of the failure of the NSW Government to acknowledge the gravity of the threat posed by the Appletree Grove development and is a key reason the matter needs to be reviewed on a Federal level.

Minister Gabrielle Upton as current Minister for Environment and Heritage has been formally approached by women seeking to the protect the Cave on a number of occasions. Minister Upton has chosen not to respond to requests to meet with her and has failed to address any of the concerns raised by the Aboriginal and wider community regarding the Butterfly Cave since she took office.

## **Failure of Lake Macquarie City Council**

In addition to seeking answers and support from the NSW Government, women have consistently attempted to engage the support of Lake Macquarie City Council planning staff in an effort to protect the Cave.

As early as 1986, assessment studies in Lake Macquarie recognised the importance of protecting Aboriginal sites from “indirect” damage. Despite this, vital spiritual water courses have been damaged by pre-construction testing near the Butterfly Cave.

**Damage may also be indirect, for example through changes in drainage patterns which may cause water to erode a surface with engravings or cut through an archaeological deposit, or through the planting or removal of vegetation which may cause roots to penetrate a deposit, or expose an art site to rain and wind, or by making public access easier or more likely. Increased visitation, without positive protective or educational measures, generally leads to some damage. Legislation deals with this type of damage less effectively, and a greater burden of responsibility therefore falls on the relevant planning authority.**

Additionally, it was recognised and reported that the physical integrity of a site is not the sole defining factor when determining importance and relevance of an Aboriginal site:

Such physical integrity may not be as important to those for whom the site is significant as a symbol of the past presence of their ancestors. To them even the former presence of a totally destroyed site, for example the known location of a bulldozed Bora ring, may be of great importance.

On the other hand, with regard to for example mythological sites, the integrity of a site and its immediate environment are usually of great importance. In such cases integrity may mean more than non-interference with the site and its surroundings, and include rules about visiting rights and appropriate behaviour within a particular area.

Assessment of Prehistoric Heritage in the Lake Macquarie Area by Laila Haglund, Haglund and Associates, commissioned by Lake Macquarie City Council, 1986

Despite this report being published 30 years ago, LMCC consistently refuses to recognise the importance of the bushland around the Butterfly Cave and refuses to support requests by the Awabakal community that the buffer zone be increased from 20m to (a minimum) of 100m. Women have logged a number of complaints regarding the involvement of LMCC in the management of the Appletree Grove Estate, including: the failure of LMCC planning staff to supply the JRPP with documentation from the Awabakal Local Aboriginal Land Council and the wholesale endorsement of the Draft Plan of Management prepared by OEH without making any suggestions or alterations.

## We keep fighting

Frustrated, angry and disappointed we did not give up. We continued to push for protection. We continued to meet with representatives from all levels of government, but in truth it seems the only mechanism that worked for us was social media. Hundreds of hours were put into creating a Facebook, Twitter, change.org and GoFundMe campaign.

As of 31 July 2020:

- our Facebook page has over 15,000 followers
- our change.org petition has over 117,000 signatories
- we have raised in excess of \$30,000 via GoFundMe to fund legal advice

It is disgraceful that the most powerful way our voice can be heard is through other people. What happens if a group doesn't have the capacity to harness social media? How is their voice going to cut through the bureaucracy and pointless meetings that are required to flag a site of significance? Why do we have to deal with so many men when seeking to protect a women's site?

## 2019 | Federal Declaration

In 2017 we learned that the Federal Government was considering a Declaration under *the Aboriginal and Torres Strait Islander Act*. We prepared a submission and spoke with the Reporter (Susan McIntyre-Tamwoy – at that time Associate Director with Extent Heritage Pty Ltd).

We met with Ms McIntyre-Tamwoy at the Cave and also in the offices of the Awabakal Local Aboriginal Land Council. Yet again we were asked *why* the site was so important and *how much* land we wanted. The need to keep repeating the same simple messages over and over is emotionally exhausting and stressful. The need to keep *justifying* what we are doing is degrading.

We were very pleased to learn in January 2019 that then-Minister Melissa Price had made a Declaration and – we mistakenly understood – that the Butterfly Cave and songline bushland was saved.

The Declaration can be found [here](#).

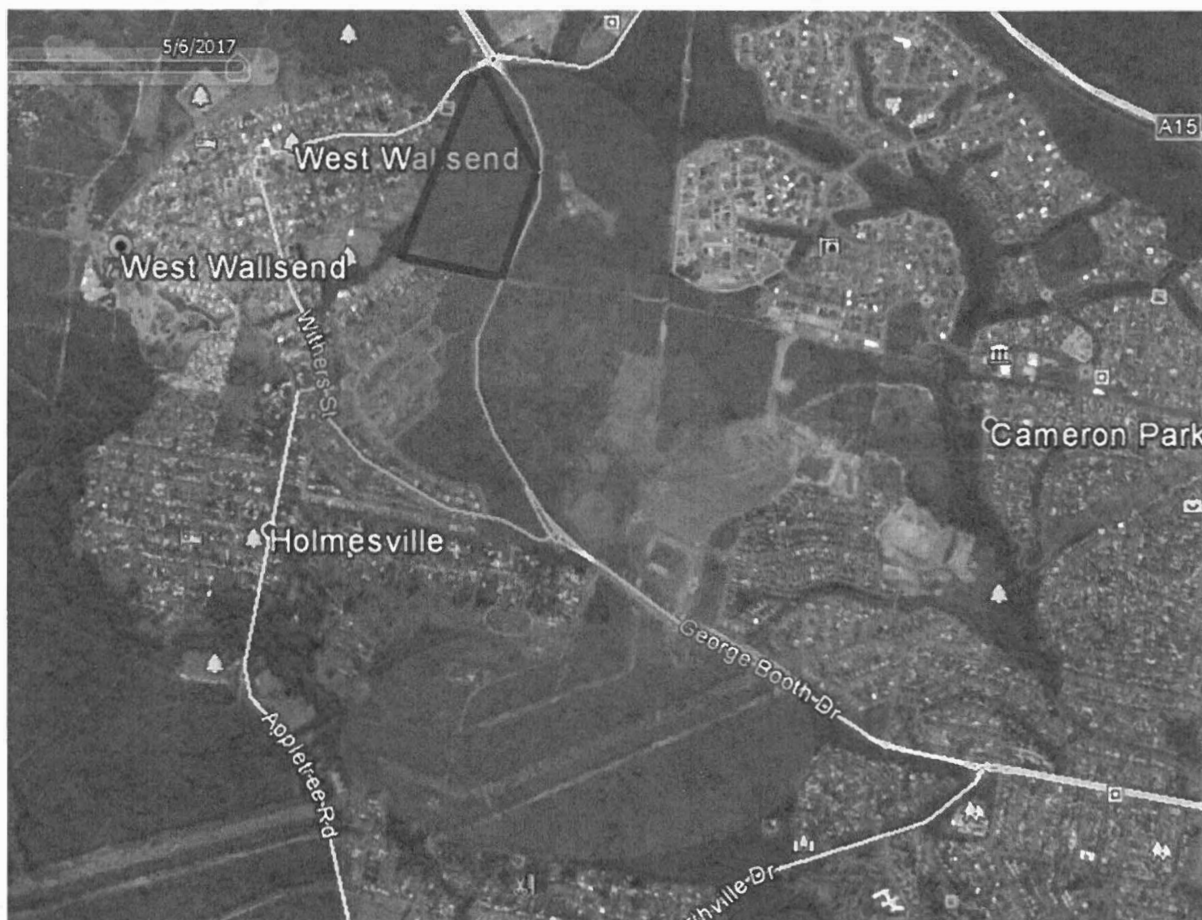
## Potential failure of legislation

Incredibly, despite the ATSIHP Declaration, Hammersmith Pty Ltd/Roche Group (the developers) still plan to build the housing subdivision that threatens to desecrate the site.

Despite being fully aware of the significance of the site in a cultural—and now legal—context, Hammersmith/Roche Group are persistent in their intent to build houses immediately adjacent to the site.

The proposed construction of Stage 7 and Stage 9 of the Appletree Grove Estate development will contravene section 6 of the Declaration. The planned roadwork and water retention basin will injure and desecrate the Declared Area. The water retention basin is located *inside* the Declared Area.

## Roche Group development footprint/land holdings Including rough outline of area we are asking to be protected.



## What is the point of having legislation that does not protect a site properly?

Ultimately, the Butterfly Cave and bushland are still not safe, despite being declared an Aboriginal Place under State legislation, and a Declaration to preserve and protect a significant Aboriginal area under the ATSIHP Act.

Again, we are forced to turn to social media campaign to alert the wider community that bureaucracy at ALL levels has failed to achieve the goal of protecting what is an irreplaceable, fragile and sacred site.

## Conclusion

It is our lived experience that much work needs to be done to resolve the inadequacy of state and federal laws in relation to ATSI heritage.

- We strongly believe that the absence of Aboriginal voices in the legislative process must be addressed
- Bureaucrats must be culturally sensitive and able to **appreciate, acknowledge and accept** the concepts, values and words of Aboriginal people in the context of their own country
- Legislation must be effective in preventing the damage, desecration or loss of significant sites
- Legislation must be revisited if it is proven to be ineffective in the damage, desecration or loss of significant sites
- Fines should be substantially increased to act as a deterrent, not a penalty. In our case, the developer is a billionaire. Any fine incurred by breaching the Declaration is unlikely to have any substantial ramification for them, but the loss to us will be unspeakable.
- Funding and mentoring should be made available to Aboriginal people or groups whose land contains areas or sites of significance to ensure that they are able to protect the sites appropriately and in perpetuity.
- Funding and mentoring should be made available to Aboriginal people or groups who find themselves in a position of conflict with powerful companies or similar.

Thank you for considering this submission.

Yours sincerely

Annie Freer  
On behalf of  
Save the Butterfly Cave  
SDAG