



**OBJECTION TO THE MODIFICATION REQUEST -
CONCEPT PLAN (MP06_0318MOD 4)
AND STAGE 1 PROJECT APPROVAL
(MP08_ 0194 MOD 2).
RESIDENTIAL DEVELOPMENT
KINGS FOREST, KINGSCLIFF**

**From
FINGAL HEAD COMMUNITY ASSOCIATION INC.**

**PO Box 29
FINGAL HEAD NSW 2487**

Dated March 11, 2014

**Submitted by Karen Morrison, President
Prepared by the FHCA Environmental Issues Sub Committee.**

To: Ray.Lawlor@planning.nsw.gov.au

**Re: Concept Plan (MP06_0318MOD 4) and Stage 1 Project Approval (MP08_ 0194 MOD 2).
Residential Development, Kings Forest, Kingscliff**

Dear Mr Lawlor

Fingal Head Community Association members are concerned about the loss of habitat for both fauna and flora on the Tweed coast and as a group we object to the Kings Forest development and especially object to this application for modifications to this development. We consider this application for modifying the conditions placed on this highly sensitive land site can not be justified. The proposed modifications are aimed to undermine the environmental protections considered essential by professionals in various fields from both local and state governments.

Following are our objections to the suggested modifications in the document entitled "Modification of Major Project Approval Number 08_0194 MOD 2" - Section 5 entitled "PROPOSED MODIFICATIONS".

5.1 Definitions.

We object to the proponent's wishes to replace the definition "*Land to be dedicated to Council as identified on the Council Dedicated Land Plan*" with the wording "**Potential Council Land as identified on the Potential Council Land Plan**". The proponent's aim of this change is obviously to take away the certainty that such land "**must be**" dedicated to council and to make this dedication instead subject to "**reaching an appropriate agreement with Council**". If this development was approved with this condition there is no reason to undermine the decision to protect environmentally significant areas by allocating them to Tweed Shire Council.

5.4 Land to be Dedicated to Office of Environment and Heritage (OEH)

We object to the proponent's wishes to amend the definition of land to be dedicated to NPWS currently entitled "*Offset area*" they would prefer to refer to it as "**Future OEH land**". As we understand, it is an offset area to attempt to compensate for some of the detrimental affects of this development and was an important consideration in gaining the development approval because it forms an essential buffer to the environmentally significant adjacent Cudgen nature reserve. This, in no way, should be considered voluntary as the "*offset area*" was an essential consideration in the original approval and "*voluntary*" introduces an element of uncertainty regarding the fulfillment of this condition.

5.2 and 5.3 Establishment & Maintenance Periods

We object to the proponent's wishes to delete any reference to ongoing "Maintenance Period". This maintenance period was obviously an important consideration in gaining approval for the development and is essential in any successful revegetation program as you are aware.

5.6 - Management & Maintenance of Environmental Lands

We object to the proponents attempt to delay the start of environmental management works. The current approval requires the proponent to implement management and maintenance in accordance with Environmental Management Plans (EMPs) on lands to be dedicated to both Council and NWPS and to do so **as soon as those plans are available**. The proponent is requesting instead that these works only begin "**From the commencement of any bulk earthworks in a precinct**" and that only the area of land "**immediately adjacent to that precinct**" is to be environmentally managed.

The environmental management should start as soon as the relevant plans are ready as this will help to reduce the long term impact of this development on habitat and ecosystems.

5.11 Baseline Monitoring

We suggest that base line monitoring needs to begin with the Environmental Management Plan as in the current approval not "**3 month prior to the commencement of bulk earthworks**" as the proponent is suggesting. As satisfactory baseline monitoring is currently a prerequisite of the earth works approval certificate and earthworks commencement it would need to be undertaken many months before earthworks are even considered.

5.12 Koala Plan Of Management

We object very strongly to the proponent's request to **delay koala tree planting**. You are well aware of the critically low level of the population of the Tweed coast Koalas and of the impact this residential development will have on this significant Koala habitat.

It is essential not only that these trees be planted but they need to be planted now, as it will be many years before these trees mature and can be useful as Koala feed trees. Loss of feed trees is only one detrimental impact of this development on the Koala population and an attempt needs to be made to offset this impact

5.14 Environmental Audit Reports

Condition 49.3 at present states that if an environmental audit: *"indicates non compliance with any of the relevant environmental management plans, approval for further stages of the development will not be granted."*

We objects to the proponent's requests that approval for further stages *no longer be contingent* on compliance of environmental audits as above but instead they propose to: *"review and if necessary revise the relevant management plans and undertake additional mitigation measures as required under this approval. "*

This change reduces the necessity and incentive to comply with environmental plans and so leaves the way open to environmental abuse.

5.15 Bond for Environmental Restoration Works

Condition 50 presently calls for a financial bond to be lodged with Council to ensure that all environmental management plans are implemented.

The proponent wants this entire condition **deleted** on the grounds that it does not provide for a refund. Section (b) of the condition clearly outlines the provision of a "refund" so this refutes the proponent's argument that this bond would somehow be illegal and once again calls into question their genuine commitment to environmental outcomes.

CONCLUSION

In concluding, the proponent justifies the modifications with a general reference to the projects proceeding "in an efficient, viable and timely manner" and the proponent suggests that the Environmental Assessment accompanying their original concept plan approval is adequate. We disagree with both these suggestions as the environmental assessment has already been questioned and "efficient, viable and timely manner" considers only the developer and no other impacts.

We strongly object to *all* of the modifications outlined here for the reasons already stated.

These modifications obviously negate many of the environmental measures called for in the document "Modification of Ministers Approval" (2013) and so should not be accepted. As you are aware the conditions in the 2013 document are fair, expertly researched and justified considering the highly sensitive nature of the development site and so it would be expected that these established conditions be accepted and implemented by the developer.

**Prepared by the Fingal Head Community Association's
Environmental Issues Sub Committee.**