

Development Assessment Systems and Approvals  
Department of Planning & Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

Attn: Director – Industry, Key Sites & Social Projects

**Re: Kings Forest Residential Community Development, Kingscliff: MP 06\_0318 MOD 4 (Concept Plan) and MP 08\_194 MOD 2 (Stage 1)**

I am writing on behalf of Friends of the Koala's 360 members to thank you for the opportunity to comment on the proponent's Modification Requests and to object to the application because the modifications proposed are nothing more than the proponent's attempt to dilute yet further agreed environmental protections.

In particular this submission focusses on Section 5 of *Modification of Major Project Approval Number 08\_0194 MOD 2*.

### 5.1 Definitions

The proponent's wish 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*" creates considerable uncertainty and vagueness around the proponent's fulfilment of this requirement.

### 5.2 and 5.3 Establishment & Maintenance Periods

The proponent wishes to define the Establishment Period of works specified in Environmental Management Plans as a period of time "*necessary to carry out initial environmental repair, restoration and monitoring prior to ongoing maintenance*". However, reference to an ongoing Maintenance Period is to be deleted altogether thereby negating the proponent's responsibility for ongoing maintenance standards and criteria as set out in the approved plans.

### 5.4 Land to be Dedicated to OEH

In a similar vein to 5.1, the proponent's request to amend the definition of land to be dedicated to NPWS, currently entitled *Offset area to Future OEH land* is based on the claim that such land is not compensation for development approval but a *voluntary* offer.

The proponent is in effect claiming that development approval would have been granted *without* the dedication of such land to NPWS. Such a claim is highly dubious given the high environmental value of the adjacent Cudgen Nature Reserve for which this dedicated land will serve as a protective *buffer*. Furthermore, redefining this dedication as *voluntary* introduces an element of uncertainty regarding the fulfilment of this condition which is highly worrying as it is **critical** that the environmental values of such a significant area remain protected.

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## 5.6 Management & Maintenance of Environmental Lands

This condition presently requires the proponent to implement management and maintenance in accordance with Environmental Management Plans on lands to be dedicated to both Council and NWPS and to do so as soon as those plans are available. The proponent claims that compliance cannot be achieved because the Plans are still being revised and because they are also still waiting EPBC approval and because of commercial considerations. The proponent is requesting instead that the trigger for implementation be *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.

Environmental management must commence as soon as the relevant Plans are ready. Any EPBC decisions are likely to require *more* not *less* work and *commercial considerations* is totally irrelevant. The proponent has accepted responsibility to manage these lands using particular criteria to a certain standard - surely the sooner they start the easier this is to achieve (and at less expense). Requesting such significant delays on implementing the Plans does not show a sense of *commitment* to the spirit and intent of environmental management. This is especially unacceptable given the high value of the site and the very great responsibility that sits with *anyone* who is planning to develop it.

## 5.11 Baseline Monitoring

As with the delays to implementation, the proponent wishes also to delay the *baseline reporting* on the relevant Environmental Management Plans until *3 months prior to the commencement of bulk earthworks*. At present, this condition aligns baseline monitoring with the prompt commencement of Plans. Satisfaction of this condition is in fact a *prerequisite* for issuing the construction certificate for bulk earthworks. By deleting the reference to "issuing of a construction certificate," the proponent appears to be presuming a certificate will be issued *regardless* of the standard of their environmental reporting and that they will only be asked to satisfy this condition *when they are ready to commence earth works*.

The proponent is saying that mitigation of their *very significant* impact on the Cudgen Nature Reserve and surrounds should *only begin* when they actually start moving soil around. The impact of this residential development on the natural environment will be enduring and permanent. Rather than delay augmentation strategies we expect the proponent to willingly accept them or at the very least accept direction to accept them.

## 5.12 Koala Plan of Management

The proponent's request to delay koala tree planting is the most concerning of all the proposed modifications. Our numerous but unsuccessful submissions on Kings Forest have counselled delay on actual works until compensatory plantings are well established.

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Planting koala food trees is the minimum mitigation measure in offsetting the dire destructive impacts of urban incursion resulting from this extremely harmful development. It will be years before the trees mature. Kings Forest's koalas will suffer from the loss of some of their trees and the intrinsic chaos of the construction period.

This particular request demonstrates how little koala survival matters to the proponent. Any postponement to coincide with certain earthworks (potentially years ahead) is totally irresponsible and must be rejected out of hand.

#### **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.*

The proponent requests that approval for further stages *no longer be contingent* on compliance of environmental audits. Instead, they propose to: *review and if necessary revise the relevant management plans and undertake additional mitigation measures as required under this approval.*

Such a measure only lessens the incentive to comply with environmental plans. It calls into question once again the proponent's commitment to environmental protection measures.

#### **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". This refutes the proponent's consequent argument that this bond would somehow be illegal

In conclusion the proponent justifies the modifications with a general reference to the project proceeding "in an efficient, viable and timely manner". The proponent suggests that the Environmental Assessment accompanying the original concept plan approval is adequate. This is utter nonsense. In fact the modifications requested largely negate the list of environmental measures called for in the Modification of Ministers Approval (2013).

We strongly object to *all* of the modifications requested for the reasons already outlined. Thank you for consideration of our remarks.

Yours sincerely

Lorraine Vass  
Koala Rescue and Information  
President  
6622 1233  
12 March 2014

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