

Re : SUBMISSION MODIFICATION TO KINGS FOREST APPROVAL NO. 08_0194 (MOD4)

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I hereby oppose the proponents proposed modifications to Kings Forest Approval No. 08_0194 (MOD4) for the reasons detailed below.

The proposed modification does not adequately address, and is inconsistent with the State conditions of approval, and would see a worse outcome for koalas if approved.

An ecological outcome should be achieved for Kings Forest that is generally consistent with both the State and Commonwealth approvals

The current modification does not address issues raised or uphold the advice provided by the Department. DoPE to the proponent (Project 28 Pty Ltd) on 22 February 2017 in relation to the proposed Koala Plan of Management.

Regarding Concept Plan Approval C2: Management Plan: Environmental Plan details of actions to be taken and the timing for doing so have not yet been provided. This remains problematic, as we are unable to assess the merits of plans let alone modifications to them. We are also unable to assess how management strategies interact and if they complement or conflict with each other.

It appears the proponent is seeking to reduce 93ha of koala habitat to be re-established under the existing State approval to 56.7ha of onsite koala habitat creation.

The proposed amendment to Project Condition 45: removes the requirement for offsite planting of 27ha at Cudgen Nature Reserve, only partially implements the proposed E-W corridor, and refers to a different map for onsite offsets (Fig 5) These proposed amendments are unacceptable.

While the proponent has identified some 56ha of land to offset (Fig5) the 14.92ha of koala habitat that will be lost to urban development (Fig 4), analysis of these areas using the proponents own vegetation mapping suggests that 19.8 ha is existing native vegetation of one type or another (Fig 6). As noted previously, such areas are required to be managed in their own right and should not be claimed as an "offset". Areas suitable for koala habitat offsets should be existing cleared or otherwise highly disturbed land.

There appears to be around 20ha of the 56.7ha that the proponent has mapped as existing native vegetation and which is claimed to be "suitable for koala offsets". On the other hand, it is also claimed that areas they mapped as cleared land or highly modified are actually existing koala habitat. If this is the case the vegetation mapping needs to be revised and any changes justified.

The outer 20m of the ecological buffers should be used for Bushfire APZ. The inner 30m of the ecological buffers should be used strictly for ecological purposes.

All areas used to offset koala impacts should be replaced with primary koala habitat suited to the location on the site.

The proposed KPOM does not adequately address the ways in which bushfire can be managed to protect koalas on site. Bushfire management needs to be properly integrated into the proposed KPOM. Mention needs to be made about optimal burning regimes and hazard for the koala including the possible effects of intense fire in heathlands adjacent to koala habitat.

The proposed use of koala grids instead of fauna underpasses is not acceptable. Any underpasses required at Kings Forest should be a minimum of 1.8m high X 2.4m wide with light wells for any dual carriageway roads.

There is a need for the proposed KPOM to make clear how it relates to other environmental management plans and *vice versa*. If the proponent intends to cover management of existing koala habitat under relevant Vegetation Management Plan it is essential that the proposed KPOM makes it clear that the

relevant vegetation management plan provides relevant precinct specific detail and also provides relevant guidance on matters specific to the restoration and management of existing koala habitat.

Regarding A13: Management & Maintenance of Environmental Lands

The Proponent wishes to be allowed to broaden the definition of “preliminary works” including clearing vegetation, using heavy-duty equipment to break ground, creating access tracks, moving heavy machinery and personnel and maintenance and rehabilitation works. They then ask that all such preliminary work be conducted *before environmental management plans are in place*. This is unacceptable. New habitat should be established before any clearing allowed to take place. This ensures that the offsets keep ahead of the impacts.

The KPOM should ensure that all koala habitat offset areas are appropriately marked and identified on the ground prior to the commencement of bulk earthworks.

Regarding the proposed KPOM:

- The KPOM needs to comply with the relevant State conditions of approval as well as Commonwealth conditions.
- An objective is needed to address the need for the restoration and ongoing maintenance of existing koala habitat.
- Section 1.4 Statutory Regulations – Need to address the Endangered Population listing for the Tweed Coast Koalas which should also be included in Appendix 3
- Section 4.2 Koala Population – Should make reference to Council’s 2015 repeat survey of Tweed Coast koalas including mapping.
- Section 7.3. 2 Alteration to Water Table Levels – There needs to be analysis of the impact of changing water tables due to the development on existing koala habitat.
- Section 7.3. 2 Increased Risk of Vehicle Strike – This section needs to acknowledge the threat posed by roads within the Kings Forest development
- Section 8.8 Improving Habitat Connectivity – This section needs to acknowledge the E-W corridor requirement under Concept Plan Condition B4 which should also be shown on Figure 22. If the proponent wishes to include offsite areas such as Turner’s sand quarry to facilitate the E-W corridor, it needs to be formally included in the approval process.
- Section 8.10 Preventing Koala Contact with Dogs – Given the size of the development, provision should be made for off-leash dog exercising within the development footprint. The control of wild dogs is an ongoing issue at Kings Forest and needs to be included in the proposed KPOM and the Feral Animal Management Plan.
- Section 8.11 Disease Management – Reporting and management procedures needs to be addressed and specified for all stakeholders not just ecologists engaged in monitoring. Friends of the Koala need to be mentioned as the primary contact in relation to koala disease and welfare.

Council, OEH and the Commonwealth should work together to address the deficiencies in the proposed KPOM and consider any necessary adjustments to either or both approvals as required.

The modifications sought *do not satisfy* approval conditions of NSW Planning 2017 or the EPBC Act determination 2015. The Proponent has failed to clarify the details of consent conditions of Federal and State authorities that are inconsistent with each other and needs to engage a consultant to undertake such work prior to submitting for a further modification to plans.

The proponent should be required to engage a consultant (preferably Biolink as Dr Steve Phillips directed the Tweed Coast Koala Habitat Study 2011 which was used to inform the Tweed Coast Comprehensive Koala Plan of Management) to review all of the offsetting and habitat restoration obligations for the site with

a view to preparing an integrated environmental plan of management to cover

- (1) the existing environmental zones,
- (2) the ecological buffers and
- (3) the areas affected by the new E-W corridor.

Consultation between Council, OEH and Commonwealth should develop clear terms of reference to underpin 2 and 3 above including but not limited to the following:

- The creation of at least 43.45ha of koala habitat (as per the Commonwealth approval) onsite within the existing environmental zones and ecological buffers.
- All koala habitat and heathland offsets shall occur on cleared/or highly modified land (i.e. not existing native habitat).
- Heathland offsets shall comprise wet or dry heath sub-types according to post development groundwater modelling thresholds used to justify the wallum sedge frog creation areas.
- All existing heathland within the environmental protection zones and the full width of the ecological buffers shall be retained.
- The E-W wildlife corridor shall be fully implemented of in accordance with the existing Concept Plan Condition B4 and Project Condition 45(1)b
- There shall be no spatial overlap between offsets required for the wallum sedge frog, the koala, or heathland.
- Offsets for koala habitat and heathland should (where possible) be located adjacent to existing habitat of that type, with individual areas being no smaller than 500m²
- The timing and staging of offset delivery shall be configured to ensure that offsets are established (in accordance with establishment period performance criteria) prior to the impact (clearing) being allowed to occur; and in proportion the overall offset ratio (i.e. area of total offset area : total impact area).
- In accordance with Project Condition 43(1) no “melon holing” or similar habitat interventions shall be carried to “improve” wallum sedge frog habitat.
- The location and timing of fauna fencing and underpasses shall be consistent with the existing State approval including Concept Plan Condition C9 and Project Condition 46.

Regarding Project Approval 45: Koala Plan of Management

The Proponent wishes to make several modifications to this condition

- Remove offsite planting of 27 ha of koala habitat in Cudgen Nature Reserve
- Revise timing of koala tree planting in accordance with JWC KPoM2014 &2017
- Revise areas of compensatory koala habitat planting in accordance with JWC KPoM 2017
- Increase the area of koala habitat that will be lost whilst decreasing the area of compensatory koala habitat planting. The net balance is significantly reduced from original estimates to 42 ha

These modifications are unacceptable for the following reasons:

- 27 ha of koala habitat in Cudgen Nature Reserve was a strategic measure to counter the lack of planting space within the site and the problems of overlapping with conflicting vegetation areas
- The KPoM 2017 is yet to be assessed and approved so using it to guide koala tree planting areas and the timing of such cannot be acceptable
- The revised KPoM was supposed to consult council on the detail of compensatory koala habitat planting areas and schedules – this has not been done

The Proponent wishes to adjust Project Approval 46

- to:Delete reference to roads “requiring fencing on both sides” and merely refer to “fencing”
- to adjust reference to fauna underpasses “installed at sufficient intervals to allow unimpeded movement by ...koalas across roads” by deleting reference to “across roads”
- to replace several fauna underpasses with “cattle grids”

The mapping in the revised KPoM shows roads traversing major environmental areas to be without any fencing, however the KPoM refers to "Koala exclusion fencing...on both sides of (these) roads" .(Pg46 KPoM 2017)

This request completely contravenes Project Approval conditions and should be rejected.

Permanent koala exclusion fencing is required behind the existing houses on Old Bogangar Road from the Depot Rd intersection north to integrate with existing fauna fencing on the western side of Tweed Coast Road.

Regarding Project Approval 147 KPOM : The Proponent's request to delete the use of "calming devices" during preliminary works should be rejected as traffic calming measures are an extra precaution during preliminary works.

The revised KPoM shows a Southern E-W corridor that is only 50metres wide at most and is not continuous. It does not link to the Eviron Road koala corridor as it is supposed to. This is unacceptable and would be ineffective for its purpose.

It is unacceptable that the proponent's modifications attempts to legitimize the KPOM before it has been approved. In particular these modifications attempt to legitimize significantly reduced koala habitat areas and numbers of koala food trees to be planted which is highly unlikely to satisfy conditions of approval.

I submit that an overview of the relevant conditions of the approval is presented in the KPOM and that a reconciliation table is provided in an appendix to clearly demonstrate how the KPOM addressed each relevant State and Commonwealth condition.

I do not support the formal inclusion of the proponent (or a representative nominated by the proponent) on the Koala Management Committee.