

8 July 2016

Attn: Fiona Gibson
NSW Department of Planning & Environment
Planning Services – Modification Assessments
GPO Box 39
SYDNEY NSW 2000

Dear Fiona,

**Tweed Shire Council on the proposed modification of the Cobaki
Residential Development Concept Plan (MP06_0316 Mod 4)**

I refer to your letter dated 16 June 2016 inviting Council to make a submission on the proposed modifications to the Cobaki Concept Plan (Mod 4) and provide comments below in relation to the following proposed amendments:

- New School Site in Precinct 6;
- Town Centre in Precinct 5;
- Southern Special Purpose Precinct, Registered Club and Child Care Centre in Precinct 8;
- Residential Area in Precinct 8;
- Cultural Heritage Parks in Precinct 8; and
- Restriction on Cats.

1. Planning/Urban Design

- a. No objections are raised from a planning perspective with regard to the new school site in Precinct 6. The area of the school site requires clarification – the Mod Report identifies the site as being 3.26ha, yet other documents note the site as being 3.22ha.
- b. No objections are raised with regard to the proposed increase in size of the Town Centre within Precinct 5.
- c. In relation to the Registered Club site within Precinct 8, Council and the proponents and the club enter into further negotiations to obtain a more suitable site to address planning concerns, or Council supports the registered club to continue to work with the proponent for the best outcome for this part of the development which would address the amenity concerns for adjoining residential areas.
- d. In relation to the Child Care Centre within Precinct 8, Council and the proponents and the club enter into further negotiations to obtain a more suitable site to address planning concerns, or Council supports the registered club to continue to work with the proponent for the best outcome for this part of the development which would address the amenity concerns for adjoining residential areas.

- e. In terms of the overall Southern Special Purpose Precinct, the scale and relationship with the Town Centre in Precinct 5 is not clearly defined. The proposed Neighbourhood Shop site adjacent to the Registered Club and Child care Centre is quite large (5792m²), particularly given the proximity to the Town Centre.
- f. Although there is an increase in residential land within Precinct 8, overall there is a decrease in residential area as a result of the relocation of the school sites etc. Further comment on the loss of residential land is noted below in Item 4.
- g. No objections are raised from a planning perspective with regard to the proposed reduction of Cultural Heritage Parks within Precinct 8. However, further amendments to the Cultural Heritage Management Plan (CHMP) are recommended in terms of clarifying the responsibilities for all parties with regard to the dedication and long-term maintenance of these culturally significant areas. It is also noted that the landscaping concepts within Attachment A of the Revised Cultural Heritage Parks Report prepared by Everick Heritage Consultants (March 2016) are draft and have not yet been approved by the Registered Aboriginal Stakeholders, as required by the CHMP.
- h. The proposed Concept Plan is considered to require amendment. Initially the Community Facility was intended to be relocated to within the Town Centre. However, discussions with the proponent have resulted in the Community Facilities remaining within Precinct 17. This outcome is supported by Council. However, it appears that the Concept Plan has not been updated to indicate the correct land use. Currently the Plan is showing the Community Facilities land use as Open Space. It is considered appropriate to revise the Plan such that the Community Facilities site is nominated as a yellow "Community Facilities / Education / Utilities" land use, as originally approved. The legend of the Concept Plan would also require amending, to incorporate Community Facilities with School / Utilities, as originally approved.
- i. The Development Matrix and Table 1 of the Mod Report (page 17) is considered to require amendment /updating to accurately reflect the correct land areas associated with each of the land use domains. For example, the Community Facilities / Education / Utilities use is noted as only being 3.22ha of land owned by LEDA. This figure does not appear to take into consideration the land area required for the Community Facilities (minimum of 1.5ha) and requirements for Utilities.
- j. The Precinct Plan is considered to require amendment in order to clarify which precinct the residential areas immediately adjoining the Town Centre are located in (i.e. the area to the north of the Town Centre is currently unnumbered and the area to the south of the Town Centre is not clear – is this still nominated as part of Precinct 6?).
- k. Table 1 (on pages 10 – 14 of the Mod Report) appears to incorrectly reference the sections within the report that address the specific items of the Secretary's Environmental Assessment Requirements.

2. Traffic

In terms of impacts on public infrastructure, the following comments focus on the proposed modifications in and around the Town Centre and school site. The amendments to the "Southern Special Purpose Precinct" are considered minor in terms of traffic / local road network impact, and can be properly assessed at future DA stages.

Council has been involved in pre-lodgement discussions with the proponent and their consultants on a broad range of issues around the configuration and land uses in and around the Cobaki Town Centre. Council understands broadly that the developer aims to introduce a University Precinct into an expanded town centre site, with the consolidation and relocation of the school sites into Precinct 6. The Town Centre aims to provide a mix of commercial, education, residential and community services land uses. Unfortunately it appears that the components of the revamped town centre are spread between two separate MOD applications - MOD2 (University) and MOD4 (the subject MOD). This makes proper assessment and provision of comment difficult.

Transport and Accessibility Report (Annexure E)

In terms of traffic / road network impact, Council has focussed on the applicant's Transport and Accessibility Report (TAR) prepared by Bitzios Consulting September 2015. This TAR was tabled to Council as part of the pre-lodgement process and covers the ultimate development of the town centre and the adjoining precincts, without specific regard to the MODs. It provides relatively detailed layouts of the precincts incorporating the known distributor road alignments (Cobaki Parkway, Sandy Lane) with a conceptual internal road network. The report describes an integrated process with traffic, urban and statutory planners, in order to achieve a town centre road layout to achieve best practice urban design. It is noted that MOD 4 does not provide any internal road details, so it is unknown how this urban design work can be assessed and incorporated into the Concept Plan approval.

The TAR has modelled the traffic impacts of the proposed intensification and expansion of the Town Centre site, the consolidation of the school sites, and the provision of mixed used residential/ commercial, as proposed by MOD2 and MOD4. These impacts affect the overall transport strategy for Cobaki, including impacts (positive and negative) internal to the estate, and externally on the State and Local Road networks (in New South Wales / Tweed and Queensland / Gold Coast) and key intersections and interchanges.

In order to satisfactorily service the cumulative traffic impacts of these MODs and the broader Cobaki development, the modelling in the TAR assumes several significant road network changes external to the town centre by 2031:

- Upgrading of the Kennedy Drive "dog bone" roundabout at the M1 interchange to traffic signals;
- North facing ramps at Boyd Street / M1 interchange;
- Delayed 6 laning of the M1 between Stewart Road and Boyd Street by inclusion of a ramp metering facility (370m long x 3 lanes of storage);
- Signalised intersections at the north facing exit / entry ramps;
- 2 lane Cobaki Parkway (reduced from 4 lanes);

- 2 lane Boyd Street (reduced from 4 lanes);
- Reduced Boyd Street / Gold Coast Highway intersection;
- Upgraded Piggabeen Road / Kennedy (Gollan) Drive intersection;
- Replace roundabout at Cobaki Parkway / Piggabeen Road with a channelised t-intersection;
- Replace roundabout at Cobaki Parkway / Sandy Lane with signals; and
- Two left in - left out intersections on Cobaki Parkway from the town centre.

The road upgrade requirements impact on a range of Road Authorities (Tweed Shire Council, Gold Coast City Council, the QLD Department of Transport and Main Roads and NSW Roads and Maritime Services). Further discussion is needed between the proponent, their traffic consultant and the abovementioned authorities around these road upgrades, specifically:

- How sensitive is the modelling to inclusion and completion of these additional external works?
- What is the timing relative to development of the Cobaki town centre and residential precincts?
- Who is responsible for the delivery of each of these upgrades, and how are they funded? What are the approval mechanisms (there are significant environmental and heritage constraints around Boyd Street interchange)? and
- Who is the ultimate asset owner (e.g. the ramp metering facility)?

The TAR relies heavily on a public transport strategy to achieve a high mode share, and therefore reduced traffic impacts on the wider road network. The public transport strategy is complicated by existing cross border issues, and it is acknowledged that this is beyond the proponent's control. While the inclusion of aspirational targets for public transport mode share is encouraged in order to reduce car dependency and multiple car ownership, further information is needed to ensure the sensitivity of the modelling results should these aspirational targets not be met in full. Travel mode surveys provided separately in pre-lodgement documents by Bitzios from Southern Cross University, and Tweed census figures confirm that big behavioural shifts would be necessary. A large percentage of students remain car dependent, citing location and frequency of services, poor travel times and perceived high cost as being barriers. The draft TAR proposes a shuttle service that would require customers to change buses to access the high frequency service on the Gold Coast, which may be another disincentive to public transport uptake.

Car parking strategies involve staging of infrastructure (construction of multi-storey facilities) and various management measures (parking studies, pay parking, changes to parking requirements for developments) to reduce car dependency towards the public and active transport mode share targets. Again, it is not clear how this will be managed beyond the short term, i.e. what are Council's responsibilities to fund and implement future parking infrastructure and manage parking in the estate? Are voluntary planning agreements, deeds of agreement, or section 94 plans required?

The public transport and parking strategies focus heavily on the Town Centre, but need to be expanded to include services for the surrounding residential precincts and nearby services and facilities, particularly the relocated primary school and the playing fields, due to their high peak demands.

Regarding the proposed school site in Precinct 6, Council provided the following response to the Department's request for SEARs for MOD4:

Each of the individual sites subject to the Mod (the consolidated school site and the registered club) will require traffic studies focusing on localised impacts to adjacent intersections and land uses, and compliance with relevant standards. This must also include on site car parking and public transport provision for staff, customers/students, and service vehicles. The school site would also need to take into consideration the Department of Education's requirements.

While the TAR addresses potential traffic impacts of the Registered Club at the southern end of the site (confirming no significant impacts), it provides no detail of the consolidated school site.

As noted above, the Cobaki Estate Concept Plan modifications impact on various local and state agencies. During pre-lodgement discussions, the developer was requested by Council to provide the TAR to these agencies. The developer did so, and Council organised an inter-agency meeting on 14 December 2016, attended by representatives of TSC, DTMR, RMS and Translink. GCCC were invited but were apologies.

Following detailed discussion of the issues at Cobaki, the agencies reached the following agreed position:

- 1) *Further information is required regarding the necessary order and priority of external road network improvements between Stewart Road and Kennedy Drive, in order for the assumptions in the traffic modelling to be achievable:*
 - a. *Further consultation is required with TMR regarding the proposed north facing ramps and ramp metering.*
- 2) *Further information is required regarding the implementation of public and active transport strategies in order to achieve the mode share targets assumed in the modelling. This needs to include:*
 - a. *Additional detail of the proposed actions, and responsibilities to implement;*
 - b. *Monitoring and reporting to assess progress towards targets;*
 - c. *Sensitivity of the traffic modelling to mode share targets; and*
 - d. *Necessary infrastructure internal and external to the town centre to implement the strategies.*

As the current MOD4 relies on the same TAR, these inter-agency issues have not been addressed.

Conclusion

The MOD4 application is difficult to assess from a traffic perspective because the proponent:

- Has lodged a Traffic and Accessibility Report that applies to a larger modification;
- There is no way to assess the incremental impacts of those relatively minor changes proposed in the subject MOD in isolation from the larger impacts generated by the proposed university expansion of the town centre (MOD2);
- The TAR has not been updated to address pre-lodgement discussion or feedback from the various impacted agencies; and
- The TAR does not specifically address the impacts of the consolidated school site.

As such, the above traffic comments raise the following concerns with the overall town centre concept, incorporating both MOD2 and MOD4 proposals:

- Traffic impacts on the external state and local road networks;
- Timing, extent, approvals and funding of external road network improvements;
- Sensitivity of traffic modelling for aspirational public transport mode share targets;
- Management of future staged car parking provision; and
- Traffic management issues around the consolidated school site.

3. Engineering

- a. No objections are raised with regard to Stormwater, Drainage and Servicing (Annexure H) or Electrical / Telecommunications Infrastructure (Annexure I). Further detail will be required with regard to all of these matters at future DA stages.
- b. The Access Network Plan and Potential Bus Route plan is considered to require amendment. The proposed plan references 19.0m wide road reserves for Low Volume Neighbourhood Connector Roads (purple in colour on the Plan). It is considered appropriate to amend the plan reflect Council's standard for this road type, which is an 18.5m road width.

4. Community Services/Social Planning

- a. Residential Area in P8
 - i. There are no specific concerns raised with regard to the 'relocation' of residential areas (subject to it accommodating a range of housing types and bedrooms). However, the proposed 'reduction' of land for housing by 3.61ha is of concern. The new Town Centre plan includes a University with an anticipated population of 10,500 staff and students (Traffic Report associated with Mod 4). There is concern this may increase demand on local housing stock, in particular for affordable rental and purchase properties which are in short supply in the Tweed.

- ii. The Land Use Schedule/Diagram provided to Council in July 2015 in relation to the Town Masterplan refers to proposed accommodation that will be provided on-site for 3,300 students and there is concern that housing suited to the estimated student population is not provided for.
- iii. In Leda's Affordable Housing Strategy, there is a recommendation that the proposed Concept Plan will meet the full spectrum of housing affordability in the area by "Providing subsidised housing for rent for low and moderate incomes (i.e. below \$57,750)". The report recommended that between 1-3% of affordable housing is made available. The need for affordable housing in Tweed Shire (and the State) is recognised in Councils Homelessness Policy (2015) and the Draft North Coast Regional Plan (2016) State trends and Tweed Shire research suggests the need for affordable housing has increased significantly and the Cobaki Affordable Housing Strategy could be revised to review the estimate for affordable housing and to reflect the student demographic changes in the development.

b. Alter the wording on the current Restriction on Cats

Council is aware that the Tweed Byron Local Aboriginal Land Council (TBLALC) has concerns for the management of their adjoining property, as they have a significant ongoing Potoroo Study within their boundaries. TBLALC are concerned that cats will become a threat to the Potoroo and other wildlife.

5. Ecology / Natural Resource Management

The restriction on keeping of cats was imposed by the Department of Planning at Concept Plan assessment stage. Accordingly, the absence of cats has been considered by assessors as a mitigating factor in considering the overall environmental impact of the development during the concept plan and subsequent stages.

A number of developments in Tweed Shire have been approved with partial restrictions, e.g. a restriction on the number of cats permitted to be kept on a property, various requirements regarding their confinement, or both. There is however little evidence that these measures are effective in achieving their aim of reducing roaming domestic cat incursions and their subsequent impact on native wildlife. In comparison, the complete restriction of cats is practicable to implement and has been demonstrated to reduce the occurrence of roaming cats in peri-urban bushland.

Contemporary monitoring data from Council-managed peri-urban bushland areas, has recorded regular and repeated incursions of roaming domestic cats, despite existing partial restrictions on neighbouring residential properties. Only the complete restriction on the keeping of cats, such as is in place at Koala Beach Estate, appears to result in acceptable outcomes in this regard.

Further, despite recent and considerable investment by Council in encouraging responsible cat ownership in some areas with partial cat restrictions, no discernible improvement in voluntary compliance with such restrictions is evident. The significant education and compliance burden on Council that will

result from the keeping of cats at Cobaki has not been considered in any cost estimates, including the proposed special rate, for ongoing environmental management of Cobaki Estate's bushland areas.

The above comment is consistent with the following advice from OEH, contained in the proponent's consultation report:

"This restriction would have been considered as a component of a package of biodiversity conservation measures as part of the Concept Plan approval to assist in the protection of biodiversity values on the site. As such the deletion of this condition without other measures put in its place would reduce the effectiveness of the biodiversity package that was deemed appropriate at the time of approval."

The threats posed to native fauna by roaming domestic cats are well recognised, and are particularly significant in isolated habitats, such as the remaining bushland surrounding Tweed's urban areas, where prey populations are already low and/or impacted by other stressors. As stated in the recent Draft Pest Animal Management Review (Natural Resources Commission, March 2016), feral cat populations are readily established from a few stray domestic founders, and are unequivocally recognised as having severe to catastrophic effects on native fauna.

Given the biodiversity value of Cobaki's Environmental Protection Areas and adjacent bushland, and the significance of the existing condition with regard to the overall environmental impact of the development, it is considered appropriate to retain the complete restriction on the keeping of cats in order that the development's impacts on local biodiversity are mitigated to the greatest extent possible.

6. Condition A2 – Project in Accordance With Plans

The proponent seeks to modify Concept Plan Condition A3 to reflect the amended documentation associated with this Mod.

No objection is raised to the proposed referencing of amended plans, subject to the Concept Plan, Development Matrix, Access Network Plan and Potential Bus Route plans being updated / amended as per comments in Item 1(h), (i) and (j) and Item 3(b) above.

It is noted that the Height Control plan is highlighted in the Table associated with Condition A2, yet no changes have been made to the plan.

It is also recommended that the traffic related matters raised within Item 2 above be adequately addressed prior to the approval of the amended Concept Plan.

7. Condition A3 – Project in Accordance With Documents

The proponent seeks to modify Concept Plan Condition A2 to reflect the amended/updated documentation associated with this Mod.

No objection is raised to the proposed referencing of the Modification Report (May 2016) and Aboriginal CHMP (March 2016) / Revised Cultural Heritage Parks Report (March 2016) in Condition A3(5), subject to consideration of the matters raised in Item 1(a), (g), (i) and (k) above.

No objection is raised to the proposed modification of the Cobaki Development Code to reference the amended / updated plans, subject to the Concept Plan, Development Matrix, Access Network Plan and Potential Bus Route plans being updated / amended as per comments in Item 1(h), (i) and (j) and Item 3(b) above.

8. Condition C4 – Management & Restoration Plans

The proponent seeks to modify Concept Plan Condition C4(1) to reflect the amended Aboriginal CHMP (March 2016) / Revised Cultural Heritage Parks Report (March 2016).

No objection is raised to the proposed referencing of the amended Management Plan / Report, subject to consideration of the matters raised in Item 1(g) above.

9. Condition C14 – Restriction on Cats

The proponent seeks to modify Concept Plan Condition C14 such that residential properties within the development site will be encumbered with a restriction of a maximum of two cats, with the cats to be kept indoors or within an enclosure on the allotment between the hours of 5.00pm and 6.00am.

Further to the comments provided above in Item 4(c) and Item 5, the proposed modification to Condition C14 is **not supported**. It is recommended that the wording of Condition C14 remain in its current form (i.e. the keeping of cats is totally prohibited and each residential lot be encumbered to this effect by way of an 88B instrument).

If the Department supports the proposed modification of Condition C14, it is recommended that all management measures noted in the JWA report for the keeping of cats (November 2014) be applied to future residential properties.

10. Condition C15 – Cultural Heritage Management Plan

The proponent seeks to modify Concept Plan Condition C15 to reference the amended Aboriginal CHMP (March 2016) / Revised Cultural Heritage Parks Report (March 2016).

No objection is raised to the proposed referencing of the amended Management Plan / Report, subject to consideration of the matters raised in Item 1(g) above.

11. Schedule 3 - Statement of Commitments

- a. Statement of Commitment 11 – Aboriginal Cultural Heritage Conservation
The proponent seeks to amend Statement of Commitment 11 to reference the amended Aboriginal CHMP (March 2016) / Revised Cultural Heritage Parks Report (March 2016).

No objection is raised to the proposed referencing of the amended Management Plan / Report, subject to consideration of the matters raised in Item 1(g) above.

The abovementioned comments are based on a brief assessment of the proposed Mod 4 documentation, given the restrictive timeframe provided for submissions. Should further detailed comment be requested, additional time will be required for such review.

For further information regarding this matter please contact Colleen Forbes on (02) 6670 2596.

Yours faithfully

Lindsay McGavin
Manager Development Assessment