



Department of Planning & Infrastructure  
Major Project Assessment  
GPO Box 39  
SYDNEY NSW 2001

**Attn.:** Merrick Holland, Project Officer

email: [Merrick.Holland@planning.nsw.gov.au](mailto:Merrick.Holland@planning.nsw.gov.au)

Dear Sir/Madam

**Re: Environmental Assessment, Concept Plan 05\_0091: Bayside Brunswick (Residential Subdivision). Lot 73, DP 851902, Bayside Way, Brunswick Heads**

I write on behalf of Friends of the Koala which is licensed by the Office of Environment & Heritage to rescue rehabilitate and release koalas on the Northern Rivers. Our mission is conserving koalas, particularly in the Region, in recognition of the contribution the species makes to Australia's biodiversity. We have been pursuing this aim for over a quarter of a century.

Koalas are listed as vulnerable under the *Threatened Species Conservation Act 1995*. There is a high chance of the koala becoming extinct in the wild in the medium term future.

Our 370 members hold grave concerns about the impact of the Bayside Brunswick proposal as it exists on biodiversity in the area and also on the existing link between the Brunswick and Tyagarah Nature Reserves which is particularly important for Koala as well as other threatened species.

Byron Shire Council has only recently embarked on developing a Comprehensive Koala Plan of Management (CKPoM) for the Shire's coastal areas. To the north, Tweed Shire Council is also preparing a CKPoM, somewhat more advanced than Byron. In that local government area, the *Tweed Coast Koala Habitat Study* prepared by Biolink Ecological Consultants in January 2011, "...suggests that occupancy by koalas within the [study area] has halved in recent years, with density data inferring a population estimate of approximately 144 koalas remaining in areas of currently occupied habitat." (p.6, p.30)

The situation of Koala on the Tweed coast is considered to be dire. There is every reason to believe that the habitat study yet to be carried out for the Byron coast will prove the existence of a similar situation.

In our view the Environmental Assessment (EA) provided by James Warren and Associates Pty Ltd. does not adequately address the koala as a listed threatened species. It dismisses the need for comprehensive and adequate consideration of koalas and yet the site clearly contains

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koala habitat and there is evidence of koala activity. Because the out-dated (in desperate need of reform) State Environmental Planning Policy No. 44 Koala Habitat Protection (SEPP 44) test is not wholly accommodated, the impacts of the proposed development on the koala population is not adequately assessed.

We are also very concerned that the proponent's land management practices, namely the management over time to diminish the land as koala and other threatened species habitat are not being seen in their proper context. We fear that the outcome of these practices may be misinterpreted so as to benefit the proponent in terms of the integrity of any offset proposal.

### **Koala Habitat**

SEPP 44 is dealt with at section 3.2 of the EA. While noting that koala activity has been consistently recorded at the site in surveys from 1996 to 2009, the EA comes to the conclusion that the site is not "core koala habitat", and therefore SEPP 44 does not require the preparation of a koala plan of management.

Clause 4 of SEPP 44 defines "core koala habitat" as "an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population."

Clause 3 provides that the objective of the policy is "to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and *reverse the current trend of koala population decline...*" (Emphasis added).

Accepting, as contended by the proponent, that SEPP 44 does not require the site to be considered as core koala habitat, we nevertheless submit that the Minister has the discretion as provided by sections 75D and 75J of the former Part 3A of the *Environmental Planning and Assessment Act*, to make the proponent prepare a koala plan of management that assesses the local koala population and the impact that the development is likely to have on that population, before determining whether the project can be approved.

We submit that the locality of the site relative to known core koala habitat and historical records of koala activity occurring at the site in surveys from 1996 to 2009 constitute more than enough to warrant the Minister's exercise of discretion to require a proper koala assessment.

In addition however we offer additional records gleaned from our own database as well as the Byron Shire Flora and Fauna database:

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Within the site:

17 Jan 2011, 60m south east of Aurana Place, one Koala in a small stand of eucalypts, GDA94 E553655, N6840764 (Byron)

Closely adjacent to the site:

Aug. 2004, 350m south south east of Lot 1, one Koala, GDA E554504, N6840287, (Byron)

5 Dec 2006, corner of Bayside Way and Old Pacific Highway, one female picked up and released (FOK)

6 Oct 2007, Kingsford Drive (immediately adjacent to Lot 1), one healthy Koala (FOK)

6 Aug 2009, Aurana Place (immediately adjacent to Lot 1), found dead (FOK)

12 May 2011, Brunswick Bowling Club, found diseased, euthanased (FOK)

The Byron database shows 13 Koala records within 2.5km of the site, only one of which is within a Nature Reserve (Brunswick Heads South).

We are gravely concerned about the future of the local koala populations in Byron and Tweed Shires. Development, which could be addressed to a greater extent than it currently is, would appear to be the greatest threat to their survival in coastal areas.

Under Part 3A we have seen a number of major developments approved in the Tweed Shire affecting koalas and their habitat. While those major developments do contain conditions aimed at protecting koalas and their habitat, we do not know whether in fact the relevant koala population will be afforded the protections or whether the protections will in fact ensure the survival of the populations.

As I prepare submission after submission it is apparent that 'death by a thousand cuts' continues to prevail in the Northern Rivers Region. This particular development represents yet another cut, but the cut has not even been properly assessed.

**The Slashing Regime and the Planned Offsets**

As outlined in the EA, the proposed development site is subject to an ongoing slashing regime. This is categorised as an existing use. The EA then makes the assumption that since, due to this slashing regime, much of the vegetation on the subject site is highly disturbed, the obliteration of 13.23 ha or 97% of the Wallum vegetation on the site, including koala feed trees, is justifiable.

Indeed, the EA then totally disregards these 13.23 ha when it construes, in Table 2, the planned revegetation of 5.24 ha of Wallum vegetation as a net gain of 4.86 ha of "intact vegetation".

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While this slashing regime may be legal as an existing use, to use slashing to keep 14.97 ha of Wallum vegetation and koala feed trees in a highly disturbed state so that an offset of 5.24 ha of re-vegetation can be construed as a net gain is, to put it mildly, in questionable faith.

If the proponent simply discontinued the slashing regime over some or the entire subject site, the highly disturbed vegetation would regenerate.

We therefore ask the Minister, when assessing this development application, to bear in mind that in reality, and after the planned offsets are taken into account, there will be a **net loss** of Wallum vegetation, including koala feed trees, of **9.73 ha**.

We also ask the Minister to bear in mind that any planned offsets will take time to grow, and during that time the loss of habitat and feed trees will impose further adversity upon the koala population.

We make these submissions principally with respect to Koala, but we also ask the Minister to consider similar points with respect to the Wallum froglet, another species listed as *vulnerable* that will in our view be significantly and adversely affected by this development.

### **The Vegetation Management Plan**

The EA, at 4.2.2.4, states that a "Vegetation Management Plan (VMP) will outline appropriate management practices which will ensure the integrity of the remaining Wallum vegetation is maintained." Reference to the VMP is also made in the EA in section 6.2 and in section 8 – Summary of Impacts, Mitigation & Offsets.

In the summary at section 8, much importance is placed on the planned offsets and VMP to draw the conclusion that the development represents an ecologically sustainable development.

The misconstruction of the planned offsets as a net gain has been dealt with at point 2 of our submissions.

With respect to the promised VMP, we submit that it should not be sufficient for the proponent to seek to rely on an as-of-yet undisclosed Vegetation Management Plan, to be drafted after the fact.

We submit that the Minister ought not to grant any approval until he has been provided with a copy of the VMP and assessed its adequacy in achieving its stated objectives.

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## Summary

In summary, it is our submission that:

1. The Minister require the proponent to prepare a **Koala Plan of Management** of sorts so that the Minister is able to assess the impacts that the development is likely to have on Koala, before any consideration of approval is given as is consistent with the precautionary principle;
2. The Minister require the proponent to prepare a **Vegetation Management Plan** so that the Minister is able to assess the impacts that the development is likely to have on the significant vegetation of the site in its locality context and the adequacy of the proposed management of vegetation before any consideration of approval is given;
3. The Minister does not allow the slashing regime existing use to obscure the reality that the **proposed re-vegetation offsets do not represent a net gain of vegetation, but that in fact the subject site proposes to lose 9.73 ha of Wallum vegetation, including koala feed trees**, and that therefore the Minister ought to assess the application on this basis.

We thank you for the opportunity to voice our concerns on this matter.

Yours sincerely

Lorraine Vass  
President  
31 October 2011

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