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Kings Forest conditions watered down, PAC told

Luis Feliu

Tweed environmental groups say a controversial bid by the developer of the massive Kings Forest housing estate to amend its approval amounts to a continual 'watering down' of conditions which will end up wiping out the Tweed Coast's dwindling koala population.

The developer, Leda, wants among other things to defer compensatory plantings of koala food and habitat trees till the start of earthworks at each stage of the township development, a move supported by the state planning department.

But the NSW Planning Assessment Commission (PAC), which approved the first stage of the development last year, has to decide whether to accept the proposed modifications, many of which have been objected to by Tweed Shire Council, the state Office of the Environment and Heritage (OEH), environment groups and residents.

During the PAC hearing at South Tweed Sports Club yesterday, representatives from Team Koala, Caldera Environment Centre and the Northern Rivers Guardians said many of the proposed changes were unacceptable and a dilution of vital approval conditions already agreed on.

The changes include the timing of: the tree plantings, site subdivision, baseline monitoring and management of dedicated environmental lands; as well as the deletion of a bond required for environmental restoration works, amendments to definitions, and provision of affordable housing.

Team Koala president Jenny Hayes ridiculed the developer's claims that the changes were 'minor' or of a 'housekeeping' nature.

'Be assured, these are not minor changes. A bulldozer is not a broom. It is not housekeeping,' she told the hearing to applause from many in the audience of around 50.

Ms Hayes said the development, which eventually will have 4,500 homes and around 10,000 people on the 880-hectare site southwest of Kingscliff, will result in the loss of koala habitat, but a total of 25 hectares of compensatory plantings of koala food and habitat trees had now been postponed indefinitely.

'All local koala food trees are regarded as significant food trees so to remove 18 of them is disastrous. These compensatory trees should have been planted years ago,' she said.

She said the impact of delaying planting and establishing the trees was 'incomprehensible' as a staged approach did not account for the length of time the replacement trees would take to grow and become a viable food source.

Ms Hayes said also the 'piecemeal approach' to the proposed dedication of land 'is completely unacceptable'.

Caldera Environment Centre's Marion Riordan told the hearing the proposed changes could be summed up as a 'further watering down of already agreed and imposed environmental safeguards', a 'diluting of reasonable controls and conditions' and the 'shirking responsibility for mitigation works'.

'This is a development that is to occur in, and adjacent to, environmentally sensitive and important land,' Ms Riordan said.

'This is Leda's choice. It was not compulsory for Leda to choose a site next to a major nature reserve, or to choose land that has such environmental importance. There are numerous sites in the Tweed shire where this would not be an issue. But they chose Kings Forest,' she said.

'Having made that choice, it is reasonable to expect Leda to meet appropriate standards and controls.

Historical resistance

'Instead of working with the community to develop appropriate controls, the record of several years shows that Leda has resisted requests from the council and the local community, to mitigate the impact they will have.

'They have tried to pass this off as if they were developing a paddock.'

Ms Riordan appealed to the PAC to reject the modifications 'and instead hold them to the reasonable controls that have been painstakingly developed by a number of key agencies over several years'.

She also queried why the developer wanted the definition of the land to be dedicated to National Parks and Wildlife Service (to add to the adjacent Cudgen Nature Reserve) changed from 'offset area' to 'future OEH land'.

Ms Riordan said the OEH did not agree with the change as the office had said 'quite rightly that the lands have been offered specifically as an "offset" for biodiversity impacts' on the site's endangered communities of freshwater wetlands, Wallum Sedge Frog habitat, the Bush Stone Curlew and Scribbly-gum forests.

'I question why the proponent wishes to change the purpose of these lands to imply that they were offered voluntarily to the OEH,' she said.

Ms Riordan also criticised the proposal to change the non-compliance condition.

'Approvals for further stages of the development no longer hinge on environmental audits. The incentive to ensure compliance with management plans has gone altogether,' she said, adding that both council and the OEH disagree with the modification.

'It is in effect removing an entire layer of insurance for compliance with environmental management plans (EMPs).

'The department states that the EPA (Environment Protection Authority) has sufficient powers to stop works should a breach occur, but the EPA has unfortunately proven extremely ineffective in prosecuting such cases over the years and in some very recent examples,' she said.

Ms Riordan also questioned the need for a re-wording of the condition on the 'land to be dedicated to council' to 'potential council land', which Tweed Council also had objected to.

'Rewording instills a level of uncertainty and ambiguity to the requirement,' she said, adding that the developer's arguments were unconvincing'.

Northern Rivers Guardians' Dave Norris said the Tweed Coast's koala population was at 'dangerously low' levels and a recent study had shown had been halved in the past 10 years with only 144 left in three colonies, including at and around the Kings Forest site.

Mr Norris said the plantings of koala habitat trees must not be delayed' as the koalas were already struggling in their habitat and further loss would lead to the extinction of the coastal koala population extinction.

Tony Thompson told the hearing he too was concerned about the proposed change to the condition on environmental audits which made enforcement of non-compliance 'much softer'.

Mr Thompson called for a public inquiry into the development to 'give the locals their fair say'.

Team wildlife carer Jan Pilgram said the proposal to delay the starting date for baseline monitoring of environmental impacts till three months prior to earthworks rather than starting the monitoring before the issuing of construction certificates would also impact on the koalas' future.

Ms Pigram said official biodiversity data would not be accurate as a result, and if monthly water-monitoring data was collected then baseline monitoring of koala activity and habitat should also be done.

She said the koala was Australia's 'flagship species' like the orangutang in Borneo' and highlighted the plight of many other endangered species, so the baseline monitoring of for the conservation of the koala 'must be taken seriously and must be done before the issuing of construction certificates or the koala will continue to decline'.

Lindy Smith told the hearing the Kings Forest site had a long and checkered history but protections from impacts on the site, adjoining wetlands and the adjacent Cudgen Nature Reserve had been 'systematically eroded' over the years.

Ms Smith said future maintenance of lowland coastal areas needed strict conditions so the cost of any big rectification works would not be shifted to ratepayers.

Marie Jack told the hearing it was extremely important that environmental management plans be in place before earthworks which would result in a loss of trees 'and the koala plan of management is all there is to save the wildlife, so please make it count'.

Survey 'abandoned'

Tracey Dobson said the developer should not be allowed to 'abandon' surveying the subdivision's precincts and environmental zones and areas should be pegged now before any earthworks because 'no-one will know what's to protect?'

Ms Dobson said there would be lots of activity on site with bulldozers and trucks yet with no areas pegged before the earthmoving stage, as the developer wanted, confusion could cause havoc in the sensitive areas.

She said Leda wanted to remove the compliance condition which would penalise breaches by not approving further stages because it would 'hurt the developer'.

Ms Dobson said penalties imposed by the EPA on breaches by developers in the past had been ineffective.

'In 2011, several hundred metres of precious land there (on the Cudgen Nature Reserve boundary) was destroyed "by accident", so let's not risk it happening again,' she said to loud applause.

She also asked why Leda was 'going to so much trouble' to change the wording of definitions in the conditions, as the terms were legally important and ensured certainty.

She said the proposed total deletion of the condition for a bond for restoration works was 'a beauty' and that 'a developer has to be made accountable, it's the only way to get them to comply'.

'Why are we even considering these amendments which dilute what's been fair to all parties when the previous plan was seen as quite adequate and fair'.

Cr Katie Milne said nearly eight hectares of koala habitat trees would be lost as a result of the proposed tree-planting amendments and 'to reduce that habitat would directly lead to their extinction'.

Tweed Greens' Andrea Vickers said the development could still be held up by the federal government which recently called in the project as a 'controlled action' under the Environment Protection and Biodiversity Conservation Act.

Ms Vickers ended the hearing with a slide presentation on the endangered Wallum Sedge Frog which lives on the Kings Forest site and surrounds, saying that most of the frogs would be eliminated by bulk earthworks and construction activities.

She said almost all of the frog's suitable habitat of regenerating wet and dry heath would be destroyed by earthworks and the compensatory habitat did not compensate for the loss of the original heath land habitat.

She also said an acid frog management plan was needed for Kings Forest, similar to a federally-approved large development at Caloundra which was rescuing threatened frogs.

PAC chair Garry West told *Echo.netdaily* a decision on the proposals would be made in around a month.



<http://mainsite.echopublications.netdna-cdn.com/wp-content/uploads/2014/10/frog.jpg>

The Wallum Sedge Frog. The federal government could still hold up the Kings Forest development over their plight.

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