

The Regional Director
NSW Department of Planning and Infrastructure
PO Box 1226
NEWCASTLE NSW 2300

Dear Sir

Re: Planning Proposal for Boundary Road - Assessment under the CKPoM

Council has reviewed the applicant's Planning Proposal against the Port Stephens Council Comprehensive Koala Plan of Management (CKPoM). The assessment considered the revised Koala Habitat mapping that was provided by the Proponent. The Department is aware that the original CKPoM mapping was based on regional scale data and that the plan allows for the mapping to be updated when considering planning proposals. The original CKPoM mapping shows the whole site as Marginal Habitat while updated mapping that Council commissioned in 2006 shows a variety of habitat types. The 2006 mapping and the revised site specific mapping are included as attachments 1 and 2 respectively.

The updated site specific mapping clearly shows that the area of the Preferred Koala Habitat is much less than originally depicted and that the majority of the Preferred Koala Habitat will be contained in an open space area. Updating the Koala habitat mapping is an accepted process, and as shown by the letter included as Attachment 3 the Department has previously confirmed that Council can continue to update the Koala habitat mapping without referral to the Department.

Port Stephens Council acknowledges that an area of Preferred Koala Habitat will still be affected by the Planning Proposal and has considered the Proponent's response to the performance criteria for rezoning proposals as described in Section 4.4 of Part 2 of the CKPoM.

Council believes that the proposal meets the performance criteria for rezoning even though the performance criteria for rezoning proposals does state that *'Council should be satisfied that the rezoning would not result in development within areas of preferred koala habitat....'*

The reason Council came to this conclusion is that the paragraph that precedes the performance criteria frames the criteria into matters that must be considered alongside the other (economic, social etc) impacts.

Secondly Section 4.4 states that *'it is crucial that due consideration is given to proposed amendments to the Port Stephens LEP to ensure that any proposed changes in land use for land that contains or is adjacent to significant koala habitat are compatible with the long term conservation of that Koala Habitat'*.

Council has given the matter due consideration and found that the protection of the north eastern section of the Site, which has been suggested to be transferred to the National Park Estate, contains high quality Koala habitat while the southern section is of a lower quality.

Council has come to the conclusion that the loss of some of the southern degraded Koala habitat against the protection of the north eastern section in perpetuity, containing high quality Koala habitat, ensures that the development is compatible with the long term conservation of Koala habitat. In addition Council notes that a DCP is to be written that ensures tree are retained in the developable area by way of designated building lots and further controls limiting vegetation removal. Council feels that most, if not all, Koala feed trees will be able to be retained.

Port Stephens Council is generally not supportive of rezoning preferred Koala habitat however believes that the CKPoM does allow development to be assessed on a merit basis and as such believes that this rezoning does not breach the CKPoM and that no amendment of the plan would be required.

Port Stephens Council has previously had this same discussion with the Department of Planning as recently as February 2007. At this time Council submitted a CKPoM monitoring report which stated that:

'Where appropriate, rezoning applications resulting in development on Preferred Koala Habitat can be approved and are carried out through the procedure for requests to amend the Port Stephens LEP 2000. To initiate this process a request goes before the PSC Rezoning Assessment Panel, and is then in turn assessed internally. Council then makes a resolution on the rezoning application. If the rezoning is supported by Council it goes to the Department of Planning for approval and subsequently a submission period is held and comments requested from public agencies. Council then considers the submissions received in addition to issues such as koala habitat along with economic and social issues. Council then recommends to the Department of Planning an approval or refusal of the application.'

The cover letter to this report also discussed the issue and stated that *'in summary the plan cautions against rezoning preferred koala habitat however gives guidelines should Council have valid reasons...'*

The Department of Planning then sent Council a letter dated January 2008 accepting the monitoring report. This is included as Attachment 3.

In summary Council believes that the Planning Proposal is in line with the principles of the CKPoM and that no amendment of the CKPoM is necessary. This is supported by the revised Koala habitat mapping and the Department acknowledgement that this can occur, the Department's acceptance of the 2007 monitoring report, and by the precedence of the Department approving past rezonings in preferred Koala habitat. An example of this is the 2004 rezoning of the Pacific Dunes development in Medowie.

As per the Department's request the Planning Proposal subject of the Gateway Determination on 30th June 2010 was also discussed with the CKPoM Steering Committee on the 20th of September 2010. The Committee acknowledged that the land does have some development potential and had some suggestions to decrease the impacts at the development application phase. The Committee did comment that in an ideal situation it would be ideal to retain the preferred Koala habitat in the south west however also acknowledged that this section of the habitat was disturbed and that it was positive that the Koala habitat in the north eastern section was being protected in perpetuity.

The updated Planning Proposal concept will be referred to the Committee for additional comment in the event of a revised Gateway Determination.

Council believes that the Planning Proposal has manageable environmental constraints and that the CKPoM does not need to be amended for this rezoning request to proceed.

Yours faithfully

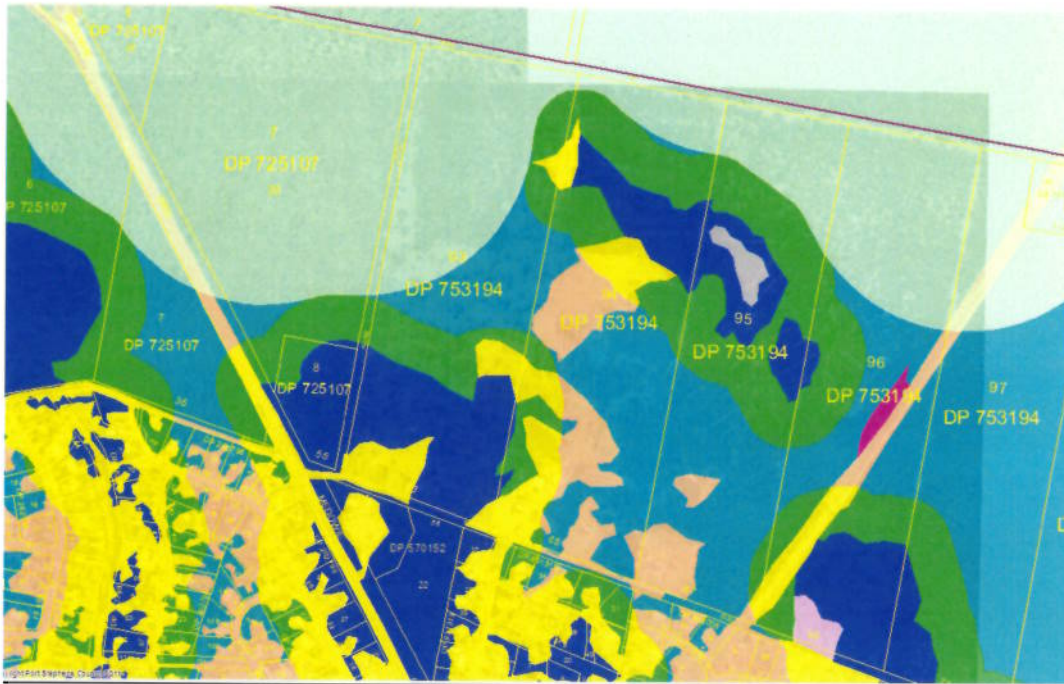
A handwritten signature in black ink, appearing to read 'M Borsato', with a long horizontal flourish extending to the right.

Matthew Borsato

Strategic Planner
Development Services Group

4th April 2012

Attachment 1: 2006 CKPoM Mapping



Please note that the original 2000 Mapping has the whole site as Marginal Habitat.

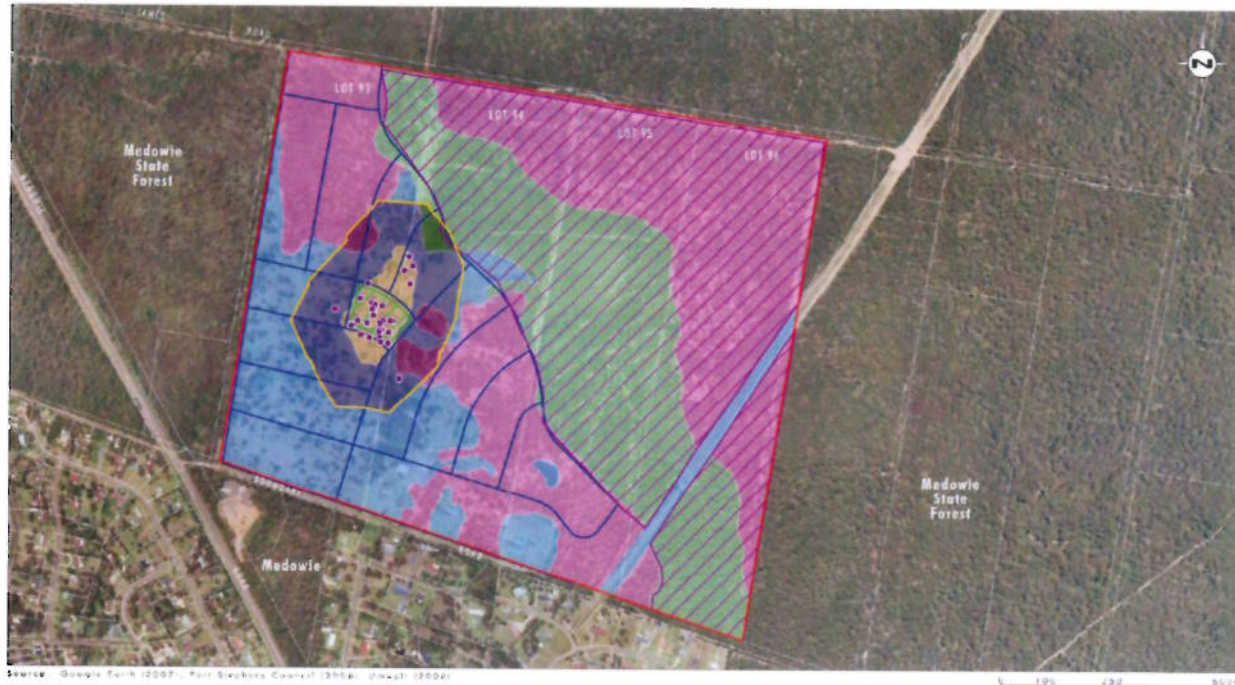
Koala Habitat Planning Map Classes

Medowie and Tilligerry KMU - August, 2006

- | | |
|--|-----------------------------------|
| Preferred Koala Habitat | Other Vegetation |
| Supplementary Koala Habitat | 100m Buffer over Other Vegetation |
| Prefd 100m Buffer over Supplementary Habitat | Link over Other Vegetation |
| Prefd Link over Supplementary Habitat | Mainly Cleared Land |
| Marginal Koala Habitat | 100m Buffer over Cleared Land |
| Prefd 100m Buffer over Marginal Habitat | Link over Cleared Land |
| Prefd Link over Marginal Habitat | Water Body |
| Unknown Koala Habitat Quality | |
| Prefd 100m Buffer over Unknown Habitat | |
| Prefd Link over Unknown Habitat | |

Attachment 2: Revised site specific CKPoM Mapping

Umwelt



Legend

State Zone	100m Buffer Over Supplementary Habitat	Area not subject to detailed SEPP 44 Tilt Mapping - as is Proposed for Amendment
Preferred Habitat	100m Buffer Over Mangrove Habitat	Proposed Road Access
Supplementary Habitat	100m Buffer Over Other Vegetation	SEPP44 Tilt
Mangrove Habitat	Preferred Koala Habitat 100m Buffer Area	
Other Vegetation	Proposed Felt	

Koala Habitat - Umwelt Mapping

Attachment 3: Letter from Dept of Planning confirming that Port Stephens Council can continue to update the Koala Habitat mapping without referral to the Department.



NSW GOVERNMENT
Department of Planning

Our Ref: N99/401
Your Ref: PSC2005/5420

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

05-9-20
11 DEC 2008 30 January 2008
S Whitelaw

Attention: Mr Peter Petersen

Dear Mr Gesling

PORT STEPHENS COMPREHENSIVE KOALA PLAN OF MANAGEMENT

I refer to the Council's letter of 26 February 2007 and the accompanying "2007 Implementation and Monitoring Report" with respect to the Port Stephens Comprehensive Koala Plan of Management (CKPoM).

Following review of the report I advise that it satisfies the condition imposed by the Director General when the CKPoM was approved in 2002. Whilst I note that the CKPoM is being implemented and that some monitoring has been undertaken, the Council has not undertaken all of the monitoring outlined within the CKPoM. Monitoring is critical to knowing the success and appropriateness of the approach being applied and to satisfying the intent of the CKPoM with regard to protecting Koala populations and habitat. Consequently I encourage the Council to initiate all of the monitoring requirements required by the CKPoM in conjunction with its Steering Committee.

I confirm that the Council can now continue refining its koala habitat mapping without further referral to the Department.

If you wish to discuss this matter please contact Mr Garry Forster on phone 49042709.

Yours sincerely,

Garry Oakley
Acting Regional Director
Hunter Region