

Council Reference: DA11/0565
Your Reference: KFOR19/127

20 August 2021

Darryl Anderson
DAC Planning Pty Ltd
jenny@dacplanning.com.au

Dear Darryl,

**Proposed amendments to Kings Forest Development Code – Version
1.4 28 June 2021**

Hi Darryl,

I acknowledge receipt of your email of 29 June 2021 with a proposal for amendments to the Kings Forest Development Code Version 1.3.

It is understood that you intend to lodge a modification application with the Department of Planning Infrastructure and the Environment with a view to updating/amending in the approved Development Code, and that you seek Council's views on same.

Set out in Table 1 and 2 below is a summary of the proposed changes (as we understand from the explanatory note accompanying the draft amendments and some comments in relation to each.

Table 1: Summary of proposed amendment to Kings Forest Development Code

	Proposed Amendment	Comment
1	<p>Section 1.2, Control 1 of the Code states:</p> <p><i>“(1) All development is to be undertaken generally in accordance with the Kings Forest concept plan at Figure 1.2.1 subject to compliance with the objectives and development controls set out in this Code.”</i></p> <p>To allow for changes in market demand over the life of the Kings Forest project (estimated at 20 plus years) and to provide greater flexibility in the application of the Code, it is proposed that the following words be inserted after the word “Code” in Control 1.</p> <p><i>“The Consent Authority may approve a development proposal which is not generally in accordance with the Kings Forest Concept Plan and Kings Forest Development Code if the Secretary is</i></p>	No objection

	<p><i>satisfied that the development proposal will deliver better planning outcomes.”</i></p>	
2	<p>Given the need to ensure that the proposed development is permissible, with development consent, consistent with the TLEP2000 zone objectives, consistent with the Precinct Development Matrix and consistent with TDCP2008, Sections A2, A3, A4 and relevant parts of A5, for the avoidance of doubt, it is proposed to include a new Clause 1.6(1) in the following terms:</p> <p><i>“For the avoidance of doubt, in the event of an inconsistency between the Kings Forest Development Code, Tweed Local Environmental Plan 2000 and relevant Sections of Tweed Development Control Plan 2008, the Kings Forest Development Code shall prevail, to the extent of the inconsistency, as it is the principal Planning Instrument regulating land use for the Kings Forest site.”</i></p>	<p>No objection</p>
3	<p>It is proposed to include a wider range of permitted uses in the various Precincts to which the Land Use Matrix relates – Refer to Table 2</p>	<p>Refer to Table 2 below</p> <p>No objection to additional uses with exception of the following:</p> <ul style="list-style-type: none"> • Function Centre in Neighbourhood Centre; • Caravan Park in Residential zone; and • Storage Premises in Employment Land. <p>Inclusion of Commercial Premises in Neighbourhood Centre can be supported subject to a caveat that commercial premises excludes specialised retail premises, landscaping material supplies, timber yards and vehicles sales & hire premises.</p> <p>Should consideration be given to permissibility of manufactured home estates, these should be specifically nominated in the residential zone (rather than relying on caravan park permissibility) under SEPP 36.</p> <p>It is recognised that the current Code allows for ‘<i>Residential types in Development Code</i>’ in both the Town Centre and the Neighbourhood Centre.</p>

A reading of the General Dwelling Controls in Section 3.1 of the Code suggests that this might be interpreted to include low density housing traditional detached dwellings, duplexes, etc, which would be contrary to the objectives of both the Town Centre and Neighbourhood Centre.

4.1 Development Within the Kings Forest Town Centre

Objectives

- (1) To create a vibrant town centre as the community and economic focal point of Kings Forest by providing a concentration and variety of retail, business office, dining, medical, community and entertainment uses.*
- (2) To co-ordinate the detailed design of the Town Centre to achieve high quality urban design and pleasant streetscapes with active frontages.*
- (3) To create a walkable and accessible pedestrian-oriented centre lower priority for car parking.*
- (4) To provide opportunities for residential development above non-residential uses below.***

4.2 Development Within Kings Forest Neighbourhood Centres

Objectives

- (1) To create vibrant, mixed use neighbourhood centres with a range of small-scale retail, business and community uses to serve the needs of people who live and work in the surrounding neighbourhood.*
- (2) To ensure buildings and spaces of high design standards and amenity.*
- (3) To provide opportunities for medium density housing within neighbourhood centres.***

While it is acknowledged that this reference to 'Residential types in Development Code' is existing in the adopted Code, clarification on appropriate residential types consistent with the objectives of the Town Centre and Neighbourhood Centre would avoid land use conflict in future (between low density residential use and commercial development) or underutilisation of these zones.

<p>4 Replace reference to DCP Section A11 with Community Engagement & Participation Plan</p>	<p>No objection</p>
<p>5 Update Glossary to use definitions from Standard Instrument rather than TLEP2000. With exception of 'manufactured home' definition which is to allow for onsite manufacture/construction:</p> <p><i>The definition of "manufactured home" contained in SEPP36 has been inserted in the Glossary but Clause (a) requiring construction of the manufactured homes off site has been deleted to provide greater flexibility, reduced cost (more affordable housing), use of local builders, trades and suppliers, retention of local economic expenditure and avoid fabrication of the homes out of the region.</i></p> <p><u>Note:</u> SEPP 36 – Manufactured Home Estates defines a manufactured home as follows: manufactured home means a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling— (a) that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and (b) that is not capable of being registered under the Traffic Act 1909, and includes any associated structures that form part of the dwelling.</p> <p>The applicant proposes to adapt this to the following: "manufactured home" means a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling— (a) that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and (b) that is not capable of being registered under the Traffic Act 1909, and includes any associated structures that form part of the dwelling.</p>	<p>bed and breakfast/home business These definitions need to be rewritten as they reference Clause 5.4, though it is not clear to reader that this relates to the LEP – limit on floor area should be clear in definition.</p> <p>dwelling It is unclear what definition is proposed given editing.</p> <p>manufactured home One cannot simply amend the definition of a manufactured home to remove the main component of what is a manufactured home (1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate). What is defined here is a dwelling.</p> <p><i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Ground and moveable dwellings) Regulation 2005 specifies in S41(1):</i></p> <p><i>'A manufactured home must not be installed on a dwelling site unless each major section of the home has been constructed and assembled at, and transported to the manufactured home estate from, a place of manufacture outside the manufactured home estate.'</i></p> <p>If one wishes to construct a manufactured home off site, they would need to make an objection under S82 of the Local Government Act.</p> <p>Light industry includes a reference to artisan food and drinks industry but no definition of same is provided.</p> <p>Multi-dwelling housing references the definition of residential accommodation (without providing such a definition).</p>

	Recreation facility (major) has been adapted in include theme parks.	
6	<p>Table 5.4.1 in relation to plex dwellings refers to Part 5.10, however Part 5.10 does not exist. Therefore, it is proposed to delete the words “<i>in accordance with Part 5.10</i>” and insert “<i>Clause 3.3.6</i>”.</p> <p>Table 5.4.1 in relation to mews dwellings refers to Parts 5.9 and 5.10, however Part 5.9 deals with easements and Part 5.10 does not exist. Therefore, it is proposed to delete the words “<i>in accordance with Part 5.10 or Part 9</i>” and insert “<i>Clause 3.3.7</i>”.</p> <p>Table 5.4.1 in relation to the neighbourhood centre refers to Part 5.10, however Part 5.10 does not exist. Therefore, it is proposed to delete the words “<i>in accordance with Part 5.10</i>”.</p>	No objection
7	<p>Proposed Concept Plan MOD11 – As per explanatory word document accompanying proposed amended Development Code</p> <p><i>It is proposed to submit an Application to amend the Concept Plan Instrument and Kings Forest Development Code.</i></p> <p><i>The Instrument amendments include:</i></p> <ol style="list-style-type: none"> 1. <i>Amend the Concept Plan Drawing to delete the lake and insert residential. ??</i> 2. <i>Amend Condition A2 to call up the amended Concept Plan Drawing. ??</i> 3. <i>Amend Condition A3(9) to call up the amended Kings Forest Development Code, Version 1.4 dated ??</i> 	This change is not identified in the Development Code. Any such change would require amended flood impact assessment and stormwater management plans for the affected precincts.

Table 2: Proposed changes to Land Use Matrix

Precinct	Development Use (added)	Use (deleted)	Objectives	Comments
Town Centre	Advertisement Advertising structure Amusement centre Bed and breakfast Centre based child care facility Commercial premises Function Centre Health consulting room Recreation facility (indoor) Registered club Shop top housing	Child care centre	(1) To create a vibrant town centre as the community and economic focal point of Kings Forest by providing a concentration and variety of retail, business office, dining, medical, community and entertainment uses. (2) To co-ordinate the detailed design of the Town Centre to achieve high quality urban design and pleasant streetscapes with active frontages. (3) To create a walkable and accessible pedestrian-oriented centre lower priority for car parking. (4) To provide opportunities for residential development above non-residential uses below.	Town Centre aligns with B2- Local Centre . Under TLEP 2014, these additional uses are all permissible with consent. Additional uses not identified as ‘prohibited’ in Standard Instrument – Principle LEP. As set out in Table 1, it is recommended that further clarity is provided with regard to the form of Residential types which would be appropriate in the town centre. It would not be considered that low density residential development such as ‘traditional detached dwellings’ would be appropriate in terms of density, achieving acritical mass to support services or landuse compatibility.
Neighbourhood centre	Advertisement Advertising structure Amusement centre Bed and breakfast Centre based child care facility Commercial premises Function centre Health consulting room Registered club Shop top housing	Child care centre	(1) To create vibrant, mixed use neighbourhood centres with a range of small-scale retail, business and community uses to serve the needs of people who live and work in the surrounding neighbourhood. (2) To ensure buildings and spaces of high design standards and amenity. (3) To provide opportunities for medium density housing within neighbourhood centres.	Town Centre aligns with B1- Neighbourhood Centre . Under TLEP 2014, the following uses are prohibited: <ul style="list-style-type: none"> • Bed and breakfast (tourist & visitor accommodation) • Specialised retail premises, landscaping material supplies, timber yards and vehicles sales & hire premises (which falls under umbrella land use of commercial premises (retail premises)) • Function centre

			<p>Additional uses not identified as 'prohibited' in Standard Instrument – Principle LEP.</p> <p>Given imminent introduction of SEPP (Short Term Holiday Letting), no objection to inclusion of bed and breakfast (within a multi-unit development).</p> <p>Function Centre is not supported given that this would not be anticipated to serve the needs of people who live or work in the surrounding neighbourhood, nor be or an appropriate landuse in terms of potential impacts – noise, traffic, etc.</p> <p>Inclusion of commercial premises can be supported subject to a caveat that commercial premises excludes specialised retail premises, landscaping material supplies, timber yards and vehicles sales & hire premises which are not considered to be appropriate landuses in a neighbourhood centre (potential landuse conflict issues – noise, parking, dust, floor space demands, etc)</p> <p>As set out above, it is recommended that further clarity is provided with regard to the form of Residential types which would be appropriate in the neighbourhood centre. It would not be considered that low density residential development such as 'traditional detached dwellings' would be appropriate in terms of density, achieving acritical mass to support services or landuse compatibility.</p>
Residential	Affordable housing	Child care centre	Code does not specify density.

	Bed and breakfast accommodation Caravan park Centre based child care facility Exhibition home Health services facility Home occupation Manufactured home Manufactured home estate Secondary dwelling			Under TLEP 2014, the following uses are prohibited in all three Zones (R1, R2, R3): <ul style="list-style-type: none"> • Caravan park Additional uses not identified as 'prohibited' in Standard Instrument – Principle LEP. The inclusion of a caravan park as a permissible use, enables the permissibility of manufactured home estates under SEPP 36. No objection to additional uses subject with the <u>exception of a caravan park</u> - potential landuse conflict issues – noise, parking, etc). Should consideration be given to permissibility of manufactured home estates, these should be specifically nominated.
Community Facilities /Education	Centre based child care facility Emergency services facility	Child care centre		No objection to additional uses
Employment Land	Advertisement Advertising structure Amusement centre Centre based child care facility Electricity transmission or distribution network Garden centre Light industry Storage premises Transport depot Truck depot	Child care centre	(1) To provide land for business premises, office premises, retail premises and other employment generating uses which require larger land areas or which are not suitable in the Town Centre Precinct. (2) To provide high visual amenity to the entry to Kings Forest, well designed buildings and pleasant streetscapes.	Employment Land may align with either B4 Mixed Use, B5 Business Development or B7 Business Park . Under TLEP 2014, the following uses are prohibited: <u>B4</u> <ul style="list-style-type: none"> • Storage premises • <u>Transport depot</u> • <u>Truck depot</u> • <u>Vehicle repair station</u> <u>B5</u>

	Vehicle repair station Veterinary hospital			<ul style="list-style-type: none"> • <u>Amusement centre</u> • Storage premises B7 <ul style="list-style-type: none"> • <u>Amusement centre</u> • Storage premises • <u>Transport depot</u> • <u>Truck depot</u> • <u>Vehicle repair station</u> <p>Additional uses not identified as 'prohibited' in Standard Instrument – Principle LEP.</p> <p>Though Amusement centres, Transport depots, Truck depots and Vehicle repair station are prohibited in two of the 'similar zones', consideration can be given to these uses given separation from Residential zone.</p> <p>No objection to additional uses subject with the exception of a Storage premises which is prohibited in all three zones. Further the employment generation associated with a storage premises is low compared to the high floor space requirements.</p>
Environmental protection area	Environmental protection works			No objection to additional uses
Proposed Lake	Recreation facility (indoor) Recreation facility (major) Recreation facility (outdoor)			Proposed Lake may align RE2 Private Recreation No objection to additional uses

Should you wish to discuss the contents of this letter further, please do not hesitate to contact me at 02 6670 2605.

Regards

A handwritten signature in cursive script that reads "Valerie Conway".

Valerie Conway

TEAM LEADER DEVELOPMENT ASSESSMENT