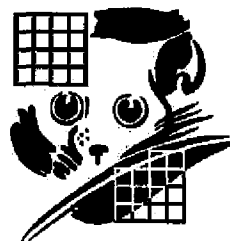


JAMES WARREN + Associates PTY LTD
ECOLOGICAL CONSULTANTS

ACN 066440 879



File: AM/97017/2011

28th July 2011

Department of Sustainability,
Environment, Water,
Population and Communities.
EPBC Act Compliance Section (NSW)
GPO Box 787
CANBERRA ACT 2601

Attention: Dr Jan Klaver

Dear Dr Klaver,

**RE: REFFERAL TO THE COMMONWEALTH OF THE PROPOSED RESIDENTIAL
DEVELOPMENT, KINGS FOREST, NSW (NSW DOP MP06_0318).**

In response to your letter dated 9th February 2011 (Attachment 1) please find also enclosed (Attachment 2) the completed "Referral of Proposed Action" form for the proposed residential development at Kings Forest NSW (NSW Department of Planning Major Project Application 06_0318).

It is understood that the environmental impacts, of matters of National Environmental Significance (NES), will be assessed in accordance with the bilateral agreement between the Commonwealth of Australia and the State of NSW under section 45 of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

In accordance with the aim of the bilateral agreement (i.e. to minimise duplication of the environmental impact assessment processes) there is no documentation attached to the referral form. Instead, reference is made to the documentation (i.e. reports, figures & management plans) already submitted to the NSW DoP (ref: MP 06_0318).

For your convenience a list of references is also provided (Attachment 3).

Please do not hesitate to contact me if you require any further information.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'J Warren', written in a cursive style.

James Warren
Managing Director JAMES WARREN & ASSOCIATES

Ballina Office
105 Tamar Street
PO Box 1465 Ballina NSW 2478
Phone: (02) 6686 3858
Fax: (02) 6681 1659
E-mail: james@jwarren.com.au

Brisbane Office
28/115 Wickham Street
Fortitude Valley QLD 4006
Phone: (07) 3257 2703
Fax: (07) 3257 2708
E-mail: brisbane@jwarren.com.au

Sunshine Coast Office
Phone: 07 5437 0277
Fax: 07 5437 0922
E-mail: sunshine@jwarren.com.au

97017 - Kings Forest



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

File N^o: 2009/27293
Telephone: (02) 6274 2562 Facsimile: (02) 6274 1607

RECEIVED
14 FEB 2011
BY:

Mr W R Ell
Director
Project 28 Pty Ltd
PO Box 1914
SURFERS PARADISE QLD 4217

Dear Mr Ell,

**PROPOSED RESIDENTIAL DEVELOPMENT
KINGS FOREST, NSW**

I am writing to you to provide information about the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). I understand that Project 28 is considering a proposed residential development, between Cabarita and Kingscliff, New South Wales. The Department has previously been in contact with Land Partners Ltd as we understand them to be the consultants acting on behalf of Project 28 on this matter. However, the Department would like to take this opportunity to provide Project 28 with some information about how the EPBC Act might apply to this proposal.

As you may be aware, the EPBC Act protects matters of national environmental significance, including listed threatened species and ecological communities, and listed migratory species, among others. Matters of national environmental significance which occur in the Kings Forest area include listed threatened species such as the Wallum Sedge Frog.

The EPBC Act requires that a person proposing to take an action that is likely to have a significant impact on a matter of national environmental significance must refer their proposal to this Department for assessment and approval. Substantial penalties apply to a person who takes such an action without approval.

In the absence of a referral, and such a decision, the EPBC Act provides for injunctions by third parties. The potential for delay may be a valid consideration in deciding whether or not a referral should be made for proposals that may be contentious, subject to tight timeframes or if certainty is needed about the possible application of the EPBC Act.

Information available to this Department suggests that this proposal may be contentious and is likely to have a significant impact on matters of national environmental significance, in particular, the Wallum Sedge Frog. The Department suggests that your proposal should be formally referred pursuant to the EPBC Act to allow a binding decision to be made on whether or not approval is needed under the Act. A binding decision will be made within 20 business days of receipt of the referral.

The Department is also happy to engage in pre-referral discussions on mitigation measures to reduce the significance of the impact by your proposed action, and potentially expedite the assessment/approval process. Fiona Beynon, Director of the New South Wales Assessment Section, whose area is responsible for assessments in New South Wales, can be contacted on (02) 6275 9263.

I have enclosed a brochure providing further information about the EPBC Act. A referral form, together with further information on the EPBC Act is also available on the Department's website.

Should you have any questions about the matters raised in this letter please call the contact officer, Janine Douglas on (02) 6274 2562 or by email: janine.douglas@environment.gov.au.

Yours sincerely



Dr Jan Klaver
Director
EPBC Act Compliance Section (NSW)
09 February 2011



ATTACHMENT 1
Letter from DSEWPC - 9th February 2011



ATTACHMENT 2
Completed referral form



Australian Government

Department of the Environment, Water, Heritage and the Arts

Referral of proposed action

Project title: Kings Forest Residential Development

1 Summary of proposed action

1.1 **Short description**

The Kings Forest Concept Plan proposes the creation of a master planned community, integrating residential development and ancillary commercial, retail, recreational and educational facilities. Large areas of open space will be provided for environmental enhancement and recreation.

1.2 Latitude and longitude

Point No.	Latitude	Longitude
Central Point	-28 ° 17 ' 48.29278 "	153 ° 32 ' 49.02066 "
1	-28 ° 17 ' 18.23018 "	153 ° 31 ' 1.91930 "
2	-28 ° 17 ' 27.03845 "	153 ° 31 ' 3.45552 "
3	-28 ° 17 ' 41.51306 "	153 ° 31 ' 8.28153 "
4	-28 ° 17 ' 45.42946 "	153 ° 31 ' 42.05711 "
5	-28 ° 17 ' 54.78128 "	153 ° 31 ' 40.70132 "
6	-28 ° 17 ' 59.63961 "	153 ° 32 ' 17.68472 "
7	-28 ° 18 ' 3.25751 "	153 ° 32 ' 17.05716 "
8	-28 ° 18 ' 5.46052 "	153 ° 32 ' 32.84719 "
9	-28 ° 18 ' 24.29186 "	153 ° 32 ' 29.61740 "
10	-28 ° 18 ' 26.95156 "	153 ° 32 ' 50.11727 "
11	-28 ° 19 ' 7.53322 "	153 ° 32 ' 43.00931 "
12	-28 ° 19 ' 14.85531 "	153 ° 32 ' 52.75169 "
13	-28 ° 18 ' 53.57300 "	153 ° 33 ' 39.10780 "
14	-28 ° 18 ' 59.78153 "	153 ° 33 ' 49.87391 "
15	-28 ° 18 ' 54.75567 "	153 ° 33 ' 55.07996 "
16	-28 ° 18 ' 45.53082 "	153 ° 33 ' 58.33305 "
17	-28 ° 18 ' 39.14874 "	153 ° 33 ' 56.58067 "
18	-28 ° 18 ' 35.24542 "	153 ° 33 ' 57.84863 "
19	-28 ° 18 ' 30.89615 "	153 ° 33 ' 22.10254 "
20	-28 ° 18 ' 2.03888 "	153 ° 33 ' 27.01508 "
21	-28 ° 18 ' 4.89261 "	153 ° 33 ' 49.04769 "
22	-28 ° 17 ' 52.49513 "	153 ° 33 ' 41.91754 "
23	-28 ° 17 ' 46.53948 "	153 ° 33 ' 35.83180 "
24	-28 ° 17 ' 30.49762 "	153 ° 33 ' 34.61716 "
25	-28 ° 17 ' 33.31639 "	153 ° 33 ' 54.97132 "
26	-28 ° 17 ' 33.62769 "	153 ° 33 ' 57.15564 "
27	-28 ° 17 ' 22.84801 "	153 ° 33 ' 59.12081 "
28	-28 ° 17 ' 20.05124 "	153 ° 33 ' 50.58479 "
29	-28 ° 17 ' 10.18576 "	153 ° 33 ' 57.74699 "
30	-28 ° 17 ' 7.63284 "	153 ° 33 ' 39.76926 "
31	-28 ° 17 ' 10.73621 "	153 ° 33 ' 36.21263 "
32	-28 ° 17 ' 20.40568 "	153 ° 33 ' 35.90270 "
33	-28 ° 17 ' 17.46952 "	153 ° 33 ' 15.37589 "
34	-28 ° 17 ' 14.15875 "	153 ° 33 ' 15.96024 "
35	-28 ° 17 ' 11.56503 "	153 ° 32 ' 57.24527 "
36	-28 ° 17 ' 5.74527 "	153 ° 32 ' 58.27518 "
37	-28 ° 17 ' 1.51434 "	153 ° 32 ' 52.73184 "
38	-28 ° 16 ' 56.49765 "	153 ° 32 ' 29.08284 "
39	-28 ° 17 ' 15.08558 "	153 ° 32 ' 26.13912 "
40	-28 ° 17 ' 7.65759 "	153 ° 32 ' 1.74866 "
41	-28 ° 17 ' 23.77167 "	153 ° 31 ' 59.02069 "

1.3 Locality

Kings Forest is located on the far north coast of NSW in the Tweed Shire local government area (LGA) approximately 20 kilometres south of the Queensland/NSW border, about 5 kilometres north of the village of Bogangar and approximately 4 kilometres south of Kingscliff. With an area of 872 ha, the site is bounded by agricultural and rural uses to the north, west and south west, and by Cudgen Lake (Cudgen Nature Reserve) and Cudgen Creek to the south and east (JWA 2011a-l).

1.4 **Size of the development footprint or work area (hectares)** 872 ha

1.5 **Street address of the site** The site can be accessed from Depot Road, off the Tweed Coast Road between Kingscliff and Cabarita Beach.

1.6 **Lot description**

In real property terms, the site is described as:

- Lot 76, 272, 323 and 326 of DP 755701
- Lot 6 DP 875446
- Lot 2 DP 819015
- Lot 1 DP706497
- Lot 40 DP7482
- Lot 38A DP 137213
- Lot 38B DP 139737
- Lot 1 DP 129737
- Lot 1 DP 781633
- Lot 7 DP 875447
- Lot 37A DP 13727

1.7 **Local Government Area and Council contact (if known)**

Tweed Shire

1.8 **Timeframe**

The development of Kings Forest is to be rolled out over approximately 15 years. Development applications for the 1st stage (i.e. Precincts 1 and 5) and earth works for Precincts 12 and 13 and the remainder of the site have been submitted to the NSW Department of Planning.

1.9	<u>Alternatives to proposed action</u> Were any feasible alternatives to taking the proposed action (including not taking the action) considered but are not proposed?	X	No
1.10	<u>Alternative time frames etc</u> Does the proposed action include alternative time frames, locations or activities?	X	no
1.11	<u>State assessment</u> Is the action subject to a state or territory environmental impact assessment?		Yes
		X	

1.12 <u>Component of larger action</u> Is the proposed action a component of a larger action?	x	no
1.13 <u>Related actions/proposals</u> Is the proposed action related to other actions or proposals in the region (if known)?	x	No
1.14 <u>Australian Government funding</u> Has the person proposing to take the action received any Australian Government grant funding to undertake this project?	x	No

2 Detailed description of proposed action

2.1 Description of proposed action

The proposed development is a master planned residential community. The concept plan is shown (**JWA 2011a-m**) and includes the following:

- Twenty three (23) residential precincts with a mix of housing types including detached houses, terraces and attached dwellings on corner allotments, comprising 4,500 dwellings covering approximately 270 hectares of net developable land;
- A mixed use Town Centre and Neighbourhood Centre with building heights of 2-3 storeys with a combined land area of 14.4 hectares;
- Community and education facilities including 2 public primary schools and a community facility over 14.5 hectares of land;
- A business park covering 7 hectares of land;
- A golf course covering 57 hectares of land that also acts as a buffer between the environmental protection areas and the residential development;
- Active and passive open space areas;
- Environmental protection areas covering 338.5 hectares of land;
- Access network of roads, public transport routes and pedestrian/cycle paths;
- Landscaping and vegetation management;
- Water management areas and lakes; and
- Utility services infrastructure.

The proposed action will also include the dedication of land zoned as Environmental Protection to Tweed Shire Council and DECCW as an addition to the Cudgen Nature Reserve (**JWA 2011a-m**).

2.2 Alternatives to taking the proposed action

Considerable thought and planning has been completed over many years resulting in a concept plan that is constrained by the existence of State and Commonwealth threatened species/EECs (e.g. Wallum sedge frog) and the aim to exert the least impact possible on these species/EECs.

2.3 Alternative locations, time frames or activities that form part of the referred action

Not Applicable

2.4 Context, planning framework and state/local government requirements

The proposed action is being assessed under Part 3A of the NSW Environment Planning and Assessment Act 1979 (EP&A Act). The EP&A Act is the principle strategic planning and approval instrument in NSW and Part 3A provides the approval framework for major infrastructure or other development that, in the opinion of the Minister, is of State or regional environmental planning significance. In addition to the EP&A Act the following legislation also applies to the proposed development:

- Threatened Species Conservation Act 1995 (TSC Act);
- State Environmental Planning Policy (SEPP) Nos. 44 (Koala Habitat Protection) and 14 (Coastal Wetlands);
- Tweed Shire Council Development Control Plan (DCP) 25 - Biting Midge and Mosquito Control.

2.5 Environmental impact assessments under Commonwealth, state or territory legislation

The following environmental assessments have been completed for the Kings Forest development site:

- James Warren and Associates (JWA) 2009 Kings Forest. Proposed Roadways. Assessment of Significance (7 Part Test Equivalence) and Assessment under Environment Protection & Biodiversity Act 1999 (NES Matters) August 2009. A report prepared for Project 28 Pty Ltd.
- JBA (2008) Concept Plan Environmental Assessment Report. Kings Forest 06_318 Submitted to NSW Department of Planning on behalf of Project 28 Pty Ltd. December 2008 – 07345.
- JBA (2009) Preferred Project Report. Kings Forest Concept Plan 06_318 Submitted to NSW Department of Planning on behalf of Project 28 Pty Ltd. August 2009 – 07345.
- LandPartners (2008a) Threatened Species Assessment under the Environmental Protection and Biodiversity Conservation Act (1999). Kings Forest. March 2008.
- LandPartners (2008b) (Revised) Assessment of the development footprint on native flora and fauna. Assessment of impacts on native vegetation clearing. Kings Forest. November 2008.
- LandPartners (2008b) (Revised) Ecological analysis of proposed rezoning. Kings Forest. Kings Forest. March 2008.
- LandPartners (2009a) Ecological analysis of proposed rezoning. Kings Forest. Kings Forest. July 2009.
- LandPartners (2009b) (Revised) Ecological analysis of proposed rezoning. Kings Forest. Kings Forest. December 2009.

2.6 Consultation with Indigenous stakeholders

Significant consultation has been undertaken with indigenous stakeholders. Reports and documentation have been submitted to the DoP.

2.7 A staged development or component of a larger project

Not applicable

3 Description of environment & likely impacts

3.1 Matters of national environmental significance

3.1 (a) World Heritage Properties

Description

No World Heritage Areas adjoin or are located in close proximity to the site.

Nature and extent of likely impact

Not applicable

3.1 (b) National Heritage Places

Description

There are two Australian heritage sites in the locality of the proposed activity:

- Stotts Island, NSW (Natural Site)
- Cudgen, NSW (Natural Site)

Nature and extent of likely impact

The proposed activity will not directly affect any of these Australian heritage sites and is not anticipated to indirectly affect any of the sites.

3.1 (c) Wetlands of International Importance (declared Ramsar wetlands)

No Wetlands of International Importance adjoin or are located in close proximity to the site.

Description

Not Applicable

Nature and extent of likely impact

Not applicable

3.1 (d) EPBC listed threatened species and ecological communities

The Wallum sedge-frog (*Litoria olongburensis*) was recorded on the subject site. DSEWPC has expressed concern regarding the potential impacts of the proposed development on the Wallum sedge frog. Concerns were outlined in a letter from Dr Jan Klaver of DSEWPC dated 9th February 2011 (**Attachment 1**). Dr Klaver's letter provides information on the Environmental Protection and Biodiversity Conservation Act (1999) (EPBC Act) and states that DSEWPC is aware of the proposed residential development at Kings Forest and suggests that the proposal may be contentious and is likely to have a significant impact on matters of national environmental significance, in particular

the Wallum sedge frog. Dr Klaver further suggests that the proposal should be formally referred pursuant to the EPBC Act.

However, it is considered that with the implementation of the rehabilitation and restoration plans for Kings Forest (JWA 2011a- k) there is unlikely to be a significant impact on the Wallum sedge frog.

In particular, Threatened Species Management Plans (TSMPs) have been completed for Stage 1 of the Kings Forest development (JWA c, g, j). The overall aim of these plans is to provide guidelines, strategies and methods for the management of the Threatened flora and fauna species recorded within the area subject to the Stage 1 development application such that species continue to persist and reproduce.

Specific objectives are:

- provide a summary of the threatened flora and fauna species occurring within the vicinity of Precincts 1 & 5;
- provide a profile for each threatened species occurring which includes:
 - a list of overall threats to the species;
 - potential threats from the development of Precincts 1 & 5;
 - recovery strategies for the species including details of Approved Recovery Plans and/or Priority Actions;
- devise management strategies to be implemented including:
 - strategies for the protection of threatened species during the construction and operation stage of the development;
 - weed control measures specific to areas containing listed threatened flora and fauna;
 - guidelines for the control of human and animal access to areas containing threatened species;
 - strategies for the embellishment of threatened species habitat through revegetation works and/or the creation of compensatory habitat areas where required.

Potential threats posed to the Wallum sedge frog include:

- Loss of habitat from habitat removal and fragmentation;
- Changes in hydrology;
- Water pollution;
- Injury/death from vehicle strike; and
- Contamination of habitat by herbicides, pesticides and fertiliser as part of landscaping maintenance.

An approved Recovery Plan has been prepared for the Wallum sedge frog (as part of the 'National recovery plan for the wallum sedgefrog and other wallum-dependent frog species' [Meyer *et al.* 2006]). The Recovery Plan lists the following relevant proposed recovery objectives:

- Identify and assess essential habitat.
- Protect wallum frog populations and manage habitat.
- Acquire information on threats to inform management.
- Engage stakeholders and the broader community in recovery of wallum frog species.
- Rehabilitate degraded wallum frog habitat.

- Monitor frog numbers and distribution.

The above listed threats and recovery strategies have been considered in the management actions outlined in the TSMPs (JWA c, g, j). Long-term management will be tied to the maintenance of existing suitable habitat within EPZ's and the creation of additional compensatory habitat areas within EPZ's and ecological buffers to offset unavoidable losses of habitat. Maintenance of hydrology (particularly acidity), stormwater and run-off (including herbicides, pesticides, fuel etc.) in constructed habitat areas is critical in determining whether these areas are capable of supporting the species in the long term.

Management actions are as follows:

The following management actions have considered the appropriate objectives of the National Recovery plan:

1. Compensatory habitat areas will be created within EPZ's and ecological buffers and will include core breeding habitat and forage habitat areas. Constructed ponds for the Wallum froglet and Wallum sedge frog have been completed as part of the Tugun Bypass, with successful results. Details of the proposed Acid Frog Compensatory habitat strategy at Kings Forest are provided in JWA 2011b.
2. Additionally, forage habitat will be created for the Acid frogs with the construction of bio-filtration swales within ecological buffers.
3. In addition to the creation of new habitat, extensive areas currently weed infested and supporting pine plantations will be rehabilitated to extend habitat areas in accordance with the Precinct 1 & 5 VMP (JWA 2011d) and Precinct 1 & 5 WMP (2011e).
4. A detailed water quality monitoring regime is included in the Overall Water Management Plan (Gilbert & Sutherland 2011) and will ensure that significant impacts on Acid frog habitats are avoided.
5. The Stage 1 FAMP (JWA 2011m) will ensure Cane toads are controlled in areas of known habitat. Core habitat areas will be densely planted with sedges etc. to deter Cane toads from entering these areas.
6. The existence of the Acid frogs must be considered in the development of any Fire Management Plan (i.e. fire should be excluded from swamps and areas immediately adjacent to Wallum froglet habitat).
7. To minimise the spread of the disease chytridiomycosis to and between habitats, all contractors undertaking work in both wetland construction and vegetation rehabilitation must follow the protocol set out within the publication *Hygiene protocol for the control of disease in frogs* (DECCW & NPWS 2008).
8. The existence of the Acid frogs must be considered in the development of any program using pesticides and herbicides for weed and/or mosquito and/or feral animal control).
9. A monitoring program has been devised to monitor the presence of these species within the vicinity of Precincts 1 & 5 (JWA 2011b). Furthermore, monitoring programs are included within the Precinct 1 & 5 VMP (2011d) and Precinct 1 & 5 WMP (2011f) to ensure suitable habitat remains viable.

A Preliminary Compensatory Habitat Plan has also been completed and is attached to the TSMP as APPENDIX 1. A summary of this plan is provided below.

It is proposed to create Core Acid frog habitat within Environmental Protection Zones (EPZ's), ecological buffers and the golf course on the Kings Forest site. Areas requiring rehabilitation works within EPZ's and buffers will be targeted. Site selection has also included consideration of the following:

- Proximity to existing Core habitat areas and Acid frog records;
- Distribution of suitable soils (i.e. Podsol);
- Topography;
- Presence of Potential Acid Sulphate soils; and
- Existing vegetation values.

The compensatory core acid frog habitat will include:

- The creation of melon holes by either using an excavator bucket to form holes approximately 60cm deep by at least 1.8m long, or through the removal of Slash pine stumps which has been shown to create small breeding ponds elsewhere on the site (PLATE 3);
- These holes will be created to intercept the water table to ensure water is available for an extended period of time and allow for successful breeding;
- It would be expected that the water in these melon holes would evaporate during extended dry periods;
- 'Tiles' of suitable vegetation (i.e. from existing habitat areas to be removed) will be translocated to compensatory habitat areas. It is likely that some frogs will also be translocated with the tiles of vegetation;
- Additionally, dense plantings of Saw-sedge (*Gahnia* spp.), Curly sedge (*Baloskion* spp.) and Matrush (*Lomandra* spp.) will also occur around the margins of these melon holes (where required) to ensure almost complete coverage of the hole by the sedges;
- The narrow design of the melon holes, coupled with the dense planting of Saw-sedge, will assist in the prevention of mosquito breeding, protect tadpoles from predation and preclude the occurrence of Cane toads.

The compensatory habitat areas will be planted with a combination of Swamp sclerophyll (i.e. Swamp mahogany & Broad-leaved paperbark) and Wet heath species.

Fourteen (14) suitable compensatory habitat areas have been identified on the Kings Forest site, covering a total area of approximately 59ha. Details of each of the proposed compensatory habitat areas can be found in the TSMP APPENDIX 1 (JWA 2011c).

3.1 (e) Listed migratory species

Description

No migratory species, as listed within schedules of the EPBC Act (1999), were recorded on site however a number of species are considered to possibly occur over time.

Nature and extent of likely impact

It is considered that although a number of listed migratory species are known or likely to occur occasionally in the Study area, however, no area of important habitat occurs on the subject site for listed migratory species.

3.1 (f) Commonwealth marine area

Description

The proposed action will not affect any Commonwealth marine area.

Nature and extent of likely impact

Not applicable

3.1 (g) Commonwealth land

Description

The proposed action will not affect any Commonwealth Land.

Nature and extent of likely impact

Not applicable

3.2 Nuclear actions, actions taken by the Commonwealth (or Commonwealth agency), actions taken in a Commonwealth marine area, or actions taken on Commonwealth land

3.2 (a)	<u>Is the proposed action a nuclear action?</u>	X	No
<u>If yes, nature & extent of likely impact on the whole environment</u>			
Not applicable			
3.2 (b)	<u>Is the proposed action to be taken by the Commonwealth or a Commonwealth agency?</u>	X	No
<u>If yes, nature & extent of likely impact on the whole environment</u>			
Not applicable			
3.2 (c)	<u>Is the proposed action to be taken in a Commonwealth marine area?</u>	X	No
<u>If yes, nature & extent of likely impact on the whole environment (in addition to 3.1(f))</u>			
Not applicable			
3.2 (d)	<u>Is the proposed action to be taken on Commonwealth land?</u>	X	No
<u>If yes, nature & extent of likely impact on the whole environment (in addition to 3.1(g))</u>			
Not applicable			

3.3 Other important features of the environment

3.3 (a) Soil and vegetation characteristics

Soil landscapes within the Murwillumbah area have been mapped and described by Morand (1996). Kings Forest falls within this area. The most westerly portion of the site comprises of parts of the Burringbar and Ophir Glen landscapes with rolling hills on metamorphics to sheet-flooded fans, alluvial fans and valley infills respectively. The soils within the Ophir Glen landscapes are formed from sediments and outwash derived from the Neranleigh-Fernvale group (i.e. tertiary basalts). The Kingscliff landscape forms the dominant landscape across the low-lying portions of the site (i.e. the north the site), comprised of low level to gently undulating marine quartz sandsheets and dunes of the Pleistocene inner barrier system. South of the Kingscliff landscape, across the middle portion of the site, the landscape is derived from a relic stream channel running east-west through the site. The south of the site, including Cudgen Paddock, consists of a poorly drained depression within Pleistocene sand sheets and dunes. Elevation is less than 3m and water ponding is common with the watertable generally 100cm of the surface (Morand 1996). Artificial drains run north and south through the Cudgen Paddock.

Most of the site has been cleared with remnants of plantation Pine forest and extensive grassland areas. Naïve vegetation types occurring include Swamp Sclerophyll Forests, Dry Sclerophyll

Forests, Wet Heathlands, Grasslands and Sedgeland. A summary of the site vegetation can be found in JWA 2011a-k.

3.3 (b) Water flows, including rivers, creeks and impoundments

The Kings Forest Estate is a component of a sub-catchment of Cudgen Creek extending between Cudgen Lake, Cudgen Creek and the Cudgen and Duranbah Ridges. The hydrology of the site has been significantly altered with the construction of artificial drainage channels. SEPP 14 Wetlands occur in the central portions of the site, primarily in conjunction with the organosol distribution.

3.3 (c) Outstanding natural features, including caves

No outstanding natural features are present on the site.

3.3 (d) Gradient (or depth range if action to be taken in a marine area)

The majority of the site ranges in elevation from approximately RL 0m Australian Height Datum (AHD) to approximately RL 10m AHD. The topography is generally flat. Some areas along the western boundaries of the site extend to higher elevations of approximately 40 - 50 m AHD.

3.3 (e) Buildings or other infrastructure

There are no major buildings or other infrastructure on the site. Dirt roads and tracks occur throughout and an abandon shed, associated with the former pine plantation, occurs in the north of the site.

3.3 (f) Marine areas

Not applicable

3.3 (g) Kinds of fauna & flora

Kings forest consists of the following:

- Six broad vegetation community types:
 1. Highly Modified-non-native;
 2. Freshwater Wetland;
 3. Heathland and Shrubland;
 4. Swamp Sclerophyll Floodplain Forest;
 5. Dry to Moist Open Forest; and
 6. Rainforest.
- Three endangered ecological communities (Freshwater wetland, Swamp sclerophyll forest and Lowland rainforest)
- Six threatened flora species;
- Nineteen recorded threatened fauna species;
- Six threatened fauna species predicted to occur.

A summary of the site flora and fauna can be found in JWA 2011a-k.

3.3 (h) Current state of the environment in the area

The current state of the environment on the subject site is considered as highly modified due to past land uses including sand mining, grazing and pine plantation.

Most of the land on the site was cleared for agriculture (i.e. grazing.) However, a number of native vegetation communities remain. Extensive clearing and subsequent slashing, and the creation of artificial drainage channels has resulted in the recruitment of a combination of native and introduced species, modifying the original mature native plant communities.

3.3 (i) Other important or unique values of the environment

All key environmental features have been addressed in the reports submitted as part of the major project application to the NSW Department of Planning (JWA 2011a-k).

3.3 (j) Tenure of the action area (eg freehold, leasehold)

The subject site land is freehold.

3.3 (k) Existing land/marine uses of area

A small portion of the land is now used for cattle grazing. Some pine is still standing but will be harvest in the near future.

3.3 (l) Any proposed land/marine uses of area

No further pine will be planted and cattle grazing will continue.

4 Measures to avoid or reduce impacts

The NSW Minister for Planning approved a Concept Plan for the proposed residential community at Kings Forest on the 19th August 2010. The approved documents included a series of Management Plans. Subsequently, the Director General issued modified Environmental Assessment Requirements (DGR's) on the 22nd December 2010. JWA have subsequently prepared a series of undated management plans in accordance with the requirements of 9.4 of these DGR's and Clause C2 of the modified Concept Approval. These plans address all likely impacts and outline proposed mitigation.

Measures to avoid and/or reduce impacts on the Wallum sedge frog and its habitat have been discussed in detail in section 3.1 (d) of this referral form. Further information can be found in the Threatened Species Management Plans (JWA 2011 c, g & j) that aim to provide guidelines, strategies and methods for the management of the threatened flora and fauna species on the site.

5 Conclusion on the likelihood of significant impacts

5.1 Do you THINK your proposed action is a controlled action?

<input checked="" type="checkbox"/>	No, complete section 5.2
<input type="checkbox"/>	Yes, complete section 5.3

5.2 Proposed action IS NOT a controlled action.

It is considered that with the implantation of the management plans (JWA 2011a-k) there will be no significant impact on any species listed in the EPBC Act (1999).

5.3 Proposed action IS a controlled action

Not applicable

6 Environmental history of the responsible party

	Yes	No
<p>6.1 <u>Does the party taking the action have a satisfactory record of responsible environmental management?</u></p> <p><u>Provide details</u></p>	✓	
<p>6.2 <u>Has the party taking the action ever been subject to any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources?</u></p> <p><u>If yes, provide details</u></p>		✓
<p>6.3 <u>If the party taking the action is a corporation, will the action be taken in accordance with the corporation's environmental policy and planning framework?</u></p> <p><u>If yes, provide details of environmental policy and planning framework</u></p>		✓
<p>6.4 <u>Has the person proposing to take the action previously referred an action under the EPBC Act?</u></p> <p><u>Provide name of proposal and EPBC reference number (if known)</u></p> <p>Cobaki Estate EPBC referral: 2010/5296</p>	✓	

7 Information sources and attachments

It is understood that the environmental impacts, of matters of National Environmental Significance (NES), will be assessed in accordance with the bilateral agreement between the Commonwealth of Australia and the State of NSW under section 45 of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

In accordance with the aim of the bilateral agreement (i.e. to minimise duplication of the environmental impact assessment processes) there is no documentation attached to the referral form. Instead, reference is made to the documentation (i.e. reports, figures & management plans) already submitted to the NSW DoP (ref: MP 06_0318).

7.1 References

For your convenience a list of references is also provided (**Attachment 3**).

7.2 Reliability and date of information

See above

7.3 Attachments

See above

8 Contacts, signatures and declarations

Project title:

8.1 Person proposing to take action

Name Mr Greg Campbell
Title General Management, Qld
Organisation Project 28 Pty Ltd
ACN / ABN (if applicable) ACN 003 919 613
Postal address PO 1914 Surfers Paradise, QLD 4217
Telephone 07 5570 5500
Email gcampbell@ledaholdings.com

Declaration I declare that the information contained in this form is, to my knowledge, true and not misleading. I agree to be nominated as the proponent for this action.

Signature



Date 29/7/2011

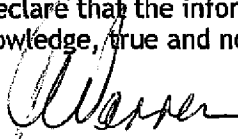
8.2 Person preparing the referral information (if different from 8.1)

Individual or organisation who has prepared the information contained in this referral form.

Name Mr James Warren
Title Managing Director
Organisation James Warren & Associates
Postal address P O Box 1465 Ballina NSW 2478
Telephone 02 66 86 3858
Email ballina@jwarren

Declaration I declare that the information contained in this form is, to my knowledge, true and not misleading.

Signature



Date 2.8.2011

If the referring party is a small business (fewer than 20 employees), estimate the time taken, in hours and minutes, to complete this form (include your time reading the instructions, working on the questions and obtaining the information and time spent by all employees in collecting and providing this information).

Hours	Minutes
16	

REFERRAL CHECKLIST

HAVE YOU:

- Completed all required sections of the referral form?
- Included accurate coordinates (to allow the location of the proposed action to be mapped)?
- Provided a map showing the location and approximate boundaries of the project area?
- Provided a map/plan showing the location of the action in relation to any matters of NES?
- Provided complete contact details and signed the form?
- Provided copies of any documents referenced in the referral form?
- Ensured that all attachments are less than two megabytes (2mb)?
- Sent the referral to the Department (electronic and hard copy preferred)?



ATTACHMENT 3
List of references sited in referral form
(i.e. documentation already submitted to NSW DoP)

References cited in referral form

- JBA (2009) Preferred Project Report. Kings Forest Concept Plan 06_318 Submitted to NSW Department of Planning on behalf of Project 28 Pty Ltd. August 2009 - 07345.
- DECCW & NPWS (2008). Department of Environment Climate Change and Water & New South Wales Parks and Wild Life Service. Hygiene protocol for the control of disease in frogs. April 2008. Threatened Species Management Information Circular No. 6 Located at <http://www.environment.nsw.gov.au/resources/nature/hyprfrog.pdf> and viewed on 10th August 2010
- Gilbert & Sutherland (2011) Overall Water Management Plan. Kings Forest Stage 1 Project Application. Prepared for Project 28. February 2011.
- James Warren and Associates (JWA) 2009 Kings Forest. Assessment of Significance (7 Part Test Equivalence) and Assessment under Environment Protection & Biodiversity Act 1999 (NES Matters) August 2009. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2009 Kings Forest. Proposed Roadways. Assessment of Significance (7 Part Test Equivalence) and Assessment under Environment Protection & Biodiversity Act 1999 (NES Matters) August 2009. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011a Kings Forest Stage 1 Project Application. Koala Plan of Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011b Kings Forest. Stage 1 Project Application. Precincts 1 & 5 Buffer Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011c Kings Forest. Stage 1 Project Application. Precincts 1 & 5 Threatened Species Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011d Kings Forest. Stage 1 Project Application. Precincts 1 & 5 Vegetation Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011e Kings Forest. Stage 1 Project Application. Precincts 1 & 5. Weed Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011f Kings Forest. Stage 1 Project Application. Precincts 2, 3, 4, 6, 7, 8, 10 & 11. Buffer Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011g Kings Forest. Stage 1 Project Application. Precincts 2, 3, 4, 6, 7, 8, 10 & 11. Threatened Species Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.

- James Warren and Associates (JWA) 2011h Kings Forest. Stage 1 Project Application. Precincts 2, 3, 4, 6, 7, 8, 10 & 11. Vegetation Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011i Kings Forest. Stage 1 Project Application. Precincts 2, 3, 4, 6, 7, 8, 10 & 11. Weed Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011j Kings Forest. Stage 1 Project Application. Precincts 12, 13 & 14. Threatened Species Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011k Kings Forest. Stage 1 Project Application. Precincts 12, 13 & 14. Vegetation Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011l Kings Forest. Stage 1 Project Application. Precincts 12, 13 & 14. Weed Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- James Warren and Associates (JWA) 2011m Kings Forest Stage 1 Project Application. Feral Animal Management Plan. June 2011. A report prepared for Project 28 Pty Ltd.
- JBA (2008) Concept Plan Environmental Assessment Report. Kings Forest 06_318 Submitted to NSW Department of Planning on behalf of Project 28 Pty Ltd. December 2008 - 07345.
- LandPartners (2008a) Threatened species Assessment under the Environmental protection and Biodiversity Conservation Act (1999). Kings Forest. March 2008.
- LandPartners (2008b) (Revised) Assessment of the development footprint on native flora and fauna. Assessment of impacts on native vegetation clearing. Kings forest. November 2008.
- LandPartners (2008b) (Revised) Ecological analysis of proposed rezoning. Kings Forest. Kings Forest. March 2008.
- LandPartners (2009) (Revised) Ecological analysis of proposed rezoning. Kings Forest. Kings Forest. December 2009.
- LandPartners (2009) Ecological analysis of proposed rezoning. Kings Forest. Kings Forest. July 2009.
- Meyer, E., Hero, J-M., Shoo, L. and Lewis, B. (2006) National recovery plan for the wallum sedgefrog and other wallum-dependent frog species. Report to Department of the Environment and Water Resources, Canberra. Queensland Parks and Wildlife Service, Brisbane.