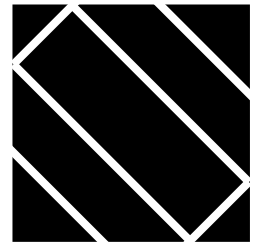




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+ MODIFICATION OF MAJOR PROJECT APPROVAL NO. 08_0194 (MOD 1)

KINGS FOREST STAGE 1 – PROPOSED RESIDENTIAL SUBDIVISION STAGE 1 AND BULK EARTHWORKS

At Kings Forest, Tweed Coast Road, Kingscliff

• Prepared For: Project 28 Pty Ltd | • Prepared by: Darryl Anderson Consulting Pty Ltd | • December 2013 |

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ANNEXURES

ANNEXURE A	Project Approval No. 08_0194, Issued by the Planning and Assessment Commission on 11 August 2013
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MODIFICATION OF MAJOR PROJECT APPROVAL NO. 08_0194 (MOD 1)

PROPOSED RESIDENTIAL SUBDIVISION STAGE 1 AND BULK EARTHWORKS AT KINGS FOREST, TWEED COAST ROAD, KINGSCLIFF

1.0 INTRODUCTION

Project 28 Pty Ltd (the owner of the land) has commissioned Darryl Anderson Consulting Pty Ltd to prepare an application for modification of Major Project Approval No. 08_0194 which relates to a residential subdivision at Kings Forest. This Modification Application (Mod 1) seeks to make minor housekeeping amendments to various conditions of the Approval.

2.0 MAJOR PROJECT APPROVAL NO. 08_0194

On 11 August 2013 the Planning and Assessment Commission, as delegate for the Minister for Planning, issued Project Approval No. 08_0194 in respect of Lots 76, 272, 323 and 326 DP 755701; Lot 6 DP 875446; Lot 2 DP 819015; Lot 1 DP706497; Lot 40 DP 7482; Lot 38A DP 13727; Lot 38B DP 13727; Lot 1 DP 129737; Lot 1 DP 781633; Lot 7 DP 875447 and Lot 37A DP 13727 for Kings Forest Stage 1 comprising the following key project elements:

"Kings Forest residential subdivision Stage 1 bulk earthworks, road works and subdivision of Precinct 4, including:

- ♦ *Subdivision of the site into 10 development lots in four stages;*
- ♦ *Bulk earthworks across the site;*
- ♦ *Road works comprising:*
 - *Construction of the entrance road and associated intersection works with Tweed Coast Road*
 - *Construction of the Kings Forest Parkway from Tweed Coast Road via Precincts 4 and 5 through to the western site precinct; and*
 - *Construction of 2 roads providing access to the southern site precincts*
- ♦ *Plan of Development for Precinct 5;*
- ♦ *Development of 2036m² of floor space for a rural supplies building and access arrangements to Precinct 1;*
- ♦ *Construction of subdivision and infrastructure works along Kings Forest Parkway and within Precincts 1 and 5;*
- ♦ *Subdivision of Precinct 5 into 376 residential lots comprising:*
 - *1 townhouse lot (7860m²);*
 - *37 terrace house lots (minimum lot size 150m²)*
 - *25 duplexes (minimum lot size 450m²)*
 - *192 zero lot dwellings (minimum lot size 240m²)*
 - *121 traditional detached dwellings (minimum lot size 400m²)"*

3.0 CONSULTATIONS

On 29 November 2013, a meeting was held between Mr Chris Wilson, Ms Sally Munk and Mr Ray Lawlor of the Department of Planning and Infrastructure and Mr Reg Van Rij, Mr Michael Geale and Mr Darryl Anderson representing the applicant, (Project 28 Pty Ltd) during which the proposed amended conditions were discussed. In summary, Departmental Officers advised that the proposed modifications would be considered, subject to further justification being provided in the formal application. Consultations with Tweed Shire Council and relevant State Agencies will also be undertaken by the Department.

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4.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS

Section 75W of the Act facilitates the lodgement and determination of an application to modify a Part 3A approval. Section 75W is in the following terms:

"Modification of Minister's approval

75W

(1) In this section:

Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.

Modification of approval means changing the terms of a Minister's approval, including:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
 - (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.
- (2) The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.
- (3) The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.
- (4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.
- (5) The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request with 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.
- (6) Subsection (5) does not apply to a request to modify:
- (a) an approval granted by or as directed by the Court on appeal, or
 - (b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.
- (7) This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."

Currently there are no regulations of relevance to a modification application.

5.0 PROPOSED MODIFICATIONS

The following table identifies the existing conditions, the requested modified conditions and reasons for the modification.

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
SCHEDULE 1		
<p>Application No.: 08_0194</p> <p>Proponent: Project 28 Pty Ltd</p> <p>Approval Authority: Minister for Planning</p> <p>Land: Kings Forest Estate</p> <p>Lot 76, 272, 323 and 326 of DP 755701;</p> <p>Lot 6 DP 875446;</p> <p>Lot 2 DP 819015;</p> <p>Lot 1 DP706497;</p> <p>Lot 40 DP7482;</p> <p>Lot 38A DP 13727;</p> <p>Lot 38B DP 13727;</p> <p>Lot 1 DP 129737;</p> <p>Lot 1 DP 781633;</p> <p>Lot 7 DP 875447; and,</p> <p>Lot 37A DP 13727.</p> <p>Project: Kings Forest Residential Subdivision Stage 1 Bulk Earthworks, Roadworks and Subdivision of Precinct 5, including:</p> <ul style="list-style-type: none"> ♦ subdivision of the site into ten development lots in 4 stages; ♦ bulk earthworks across the site; ♦ roadworks comprising: <ul style="list-style-type: none"> - construction of the entrance road and associated intersection works with Tweed Coast Road; - construction of the Kings Forest Parkway from Tweed Coast Road via Precincts 4 and 5 through to the western site precincts; and - construction of two roads providing access to the southern site precincts; ♦ Plan of Development for Precinct 5; 	<p>Land: Kings Forest Estate</p> <p>Lot 76, 272, 323 and 326 of DP 755701;</p> <p>Lot 6 DP 875446;</p> <p>Lot 2 DP 819015;</p> <p>Lot 1 DP706497;</p> <p>Lot 40 DP7482;</p> <p>Lot 38A DP 13727;</p> <p>Lot 38B DP 13727;</p> <p>Lot 1 DP 129737;</p> <p>Lot 1 DP 781633;</p> <p>Lot 7 DP 875447;</p> <p>Lot 37A DP 13727;</p> <p>Lot 2 DP 1159231 (closed road)</p> <p>Lot 1 DP 1178256 (closed road) and</p> <p>Lots 1, 2 & 3 DP 1157616 (closed roads).</p>	<p>The Project Approval applies to the former roads. As the roads have now been closed and are owned by Project 28 Pty Ltd, it is proposed that they be included in the description of the land to which the Project Approval applies.</p>

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
<ul style="list-style-type: none"> ♦ development of 2,036sqm of floorspace for a rural supplies building and access arrangements to Precinct 1; ♦ construction of subdivision and infrastructure works along Kings Forest Parkway and within Precincts 1 and 5 ♦ subdivision of Precinct 5 into 376 residential lots comprising: <ul style="list-style-type: none"> - one townhouse lot (7,860sqm) - 37 terrace house lots (minimum lot size 150sqm) - 25 duplexes (minimum lot size 450sqm) - 192 zero lot dwellings (minimum lot size 240sqm) - 121 traditional detached dwellings (minimum lot size 400sqm) 		
DEFINITIONS		
	<p>Residential lot does not include a lot that is created for one or more of the following purposes:</p> <ul style="list-style-type: none"> (a) to be dedicated or otherwise transferred to a public authority; (b) for any public utility undertaking (within the meaning of the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> as at the date of this approval); (c) to be association property within the meaning of the <i>Community Land Development Act 1989</i>; or (d) for open space, recreation, environmental conservation, drainage or riparian land management; or (e) a lot which is intended to be further subdivided, by or on behalf of the Proponent. 	The amendments are required to clarify that the thresholds are only triggered by residential lots.

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
SCHEDULE 2		
ADMINISTRATIVE CONDITIONS		
PART FOUR – SUBDIVISION OF PRECINCT 5		
<p>Statutory Requirements</p> <p>A9. The Proponent shall ensure that all licences, permits and approvals are obtained and maintained as required throughout the life of the project. No condition of this approval removes the obligation of the Proponent to obtain, renew or comply with such licences, permits or approvals. The Proponent shall ensure that a copy of this approval and all relevant environmental approvals are available on the site at all times during the Project.</p>	<p>A9. The Proponent shall ensure that all licences, permits and approvals are obtained and maintained as required throughout the life of the project. No condition of this approval removes the obligation of the Proponent to obtain, renew or comply with such licences, permits or approvals. The Proponent shall ensure that a copy of this approval and all relevant environmental approvals are available on the site at all times during the Project. For avoidance of doubt, nothing in this condition derogates from Section 75U of the EP&A Act.</p>	<p>To clarify that approvals referred to in Section 75U are not required.</p>
<p>Road Works</p> <p>A10. All road works associated with the proposal will be at no cost to council.</p>	<p>A10. All road works associated with the proposal will be at no cost to council. Contribution credits will apply for any works undertaken on the Tweed Coast Road which are included in the TRCP, Section 94 Plan No. 4.</p>	<p>Section 94 Plan No. 4 (Tweed Road Contribution Plan) includes in the Works Program (Version 6.0, Schedule 5) at Item 86(a) traffic lights at Depot Road (Kings Forest) and the Tweed Coast Road with an allowance of \$972,400.00.</p> <p>Condition 26 of the Project Approval requires a two lane roundabout to be constructed at the intersection of the Tweed Coast Road and Kings Forest Parkway (currently Depot Road).</p>

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
		<p>Condition 28 of the Project Approval in relation to intersection design provides that final designs for the Tweed Coast Road and Kings Forest Parkway are to be submitted for approval.</p> <p>The Section 94 Plan Work Schedule should be amended to refer to a two lane roundabout rather than traffic lights credits for Line Item 86(a) should be applied. In any case, a credit against the cost of construction of the intersection required by Condition 26 applies under Council's Credit Policy which is in the following terms:</p> <p>Schedule 2 Credit Policy of TRCP provides that:</p> <p><i>"Some developments require the construction of works identified in Section 94 Contribution Plans. In these instances Council will condition the development to build these works (Section 91 EPA). In addition, consent may:</i></p>

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
		<ul style="list-style-type: none"> Delete any requirement to make a monetary contribution to the Contribution Plan concerned (except the Administration Levy). That is, Council is satisfied the development has made a sufficient contribution, works in kind, to the Section 94 Works Program." <p>The amendments to this condition reflect the above.</p>
PART ONE – SUBDIVISION OF ENTIRE SITE		
<p>Environmental Offset Areas</p> <p>3. Within 3 months of the date of this approval, or as otherwise agreed with the Director-General, the Proponent shall:</p> <p>a) engage a registered surveyor to prepare a survey plan(s) and permanently mark the boundaries of the land to be dedicated to Council in the future and the Offset Area;</p> <p>b) where relevant, submit amended plans of proposed subdivision to the Director-General for approval that show the land to be dedicated to Council in the future and the Offset Area as separate lots;</p> <p>c) ensure that the boundaries marked by the surveyor remain marked at all times in a permanent manner that allows operating staff, the landowner and inspecting officers to clearly identify those boundaries; and</p> <p>d) submit for the Director-General's approval, a form of dealing(s) to be registered on the title to the land to be dedicated to Council in the future and the Offset Area that must:</p> <p>i. bind all future landowners;</p>	<p>Within 9 months of the date of this approval, or as otherwise agreed with the Director General, the proponent shall:</p>	<p>DOPI advised during pre-lodgement consultations that it does not support modification of Condition 3 to defer compliance until prior to the commencement of bulk earthworks but would support an extension of the 3 months period to 9 months. This will enable the substantive amendments to Condition 3 contained in Modification Application No. 2 to be considered and determined before compliance is triggered.</p>

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
ii. provide for the management of the land to be dedicated to Council in the future and the Offset Area for conservation purposes including the implementation of relevant Environmental Management Plans, in perpetuity; iii. permit access to the land to be dedicated to Council in the future and the Offset Area by the Department, the OEH and Council at all times for the purpose of monitoring compliance with relevant covenants and the Environmental Management Plans; and iv. provide for a release of any registered dealings in circumstances where all or part of the land to be dedicated to Council in the future or the Offset Area are transferred to a public authority. e) Where land to be dedicated to Council in the future or the Offset Area is not subject to any amended plans of subdivision, the Proponent must within 1 month of the Director-General's approval of the dealing(s) referred to in condition 3(1)(d), lodge for registration the dealing(s) on the relevant titles to the land to be dedicated to Council in the future or the Offset Area and provide to the Director-General evidence of such registration within 10 days of the dealing(s) being registered.		
PART TWO – BULK EARTHWORKS AND CIVIL WORKS (ALL PRECINCTS)		
PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE		
Cycleways/Footpaths		
25.		
1) 2.5m wide reinforced concrete cycleways are to be provided as per drawing number 12301-05-008 (B) titled "Indicative Staging Plan" prepared by Mortons Urban Solutions dated 27 August 2012. All cycleways are to be designed in accordance with council's standard drawing 'Footway and Cycleway Details' SD013, May 2004.		
2) A 2.5m wide reinforced concrete cycleway is to be provided through Precinct 5 connecting the Kings Forest Parkway cycleway and the eastern perimeter cycleway, via the central park.		
3) A 2.5m wide reinforced concrete cycleway is to be provided on the Western side of Tweed Coast Road from the proposed entry on Kings Forest Parkway, linking into the existing 2.5m wide shared user path at the Cudgen Creek bridge, prior to the release of the first residential. A contribution credit is to be applied against the council's Section 94 Plan No.22 – Cycleways for construction of this cyclepath.	A 2.5m wide reinforced concrete cycleway is to be provided on the Western side of Tweed Coast from the proposed entry on Kings Forest Parkway, linking into the existing 2.5m wide shared user path at the Cudgen Creek bridge, prior to the release of the first residential lot. A contribution credit is to be applied against the council's Section 94 Plan No.22 – Cycleways for construction of this cycle path.	Correct typographical error.

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
4) A reinforced concrete footpath 1.2m wide is to be constructed on a compacted base on all roads, except laneways in accordance with council's standard drawing 'Footway and Cycleway Details' SD013, May 2004.		
Water & Sewer 31. 1) Reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the project in accordance with council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications (as in force at the date of this approval).	Reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots within the project in accordance with council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications (as in force at the date of this approval).	This condition only applies to residential lots – see definition of Residential Lot.
2) A sewer conveyancing design report shall be submitted for all sewer pump stations and rising mains proposed to be constructed in the project. The study will include staging of pumps and mains, odour and septicity issues, interaction of future pump stations that may share the rising mains and controls for variable speed pumps that may be recommended. The sewer conveyancing design report is to be provided prior to the issue of a Construction Certificate for civil works relating to water and sewer.		
3) A water supply network model study of the water reticulation within Precincts 1 and 5 shall be submitted to Council for approval as required by Council's Development Design Specification D11 (as in force at the date of this approval) prior to the issue of a construction certificate for civil works relating to water and sewer.		
4) Prior to the issue of a construction certificate for any stage of the civil works in Precinct 5 and Precinct 1 the Proponent must prepare a detailed network analysis and plans for water and sewer reticulation infrastructure. The analyses must be prepared in accordance with council's Development Design Specification D11 and D12 (as in force at the date of this approval) respectively.		
Weed Management Plans 42. 1) The Weed Management Plans shall be amended to ensure that the control of weeds (including Slash Pine) within environmental protection zones, including the Cudgen Nature Reserve, should be undertaken utilising bush regeneration techniques including stem injection.	1) The Weed Management Plans shall be amended to ensure that the control of weeds (including Slash Pine) within environmental protection zones and ecological buffers, should be undertaken utilising bush regeneration techniques including stem injection. NOTE –Ecological buffers added, Nature Reserve omitted.	It is unreasonable and inappropriate to require Project 28 Pty Ltd to undertake weed removal in the Cudgen Nature Reserve. Inclusion of the proposed ecological buffers is reasonable and appropriate.

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
2) The final Weed Management Plans shall be prepared in consultation with Council and submitted to the Director-General for approval within 12 months of this approval or prior to issue of any construction certificate, whichever occurs first.		
<p>SEPP14 Wetlands</p> <p>63. Prior to the commencement of works for any stage of the project, the SEPP14 wetland and Cudgen Nature Reserve boundaries must be clearly delineated on-site to prevent unauthorised access to these areas. Temporary signage should be erected to ensure that construction workers are aware of the need to avoid and protect these sensitive areas. Design of the temporary fence should allow movement of native fauna present in the area. Temporary fencing and signage should incorporate all Environment Protection Zones including any of the ecological buffers proposed for dedication as part of Cudgen Nature Reserve.</p>	<p>SEPP14 Wetlands</p> <p>63. Prior to the commencement of works for any stage of the project, the environmental protection zones and buffers and Cudgen Nature Reserve boundaries adjacent to or adjoining that stage must be clearly delineated on-site to prevent unauthorised access to these areas. Temporary signage should be erected to ensure that construction workers are aware of the need to avoid and protect these sensitive areas. Design of the temporary fence should allow movement of native fauna present in the area. Temporary fencing and signage should incorporate all Environment Protection Zones including any of the ecological buffers proposed for dedication as part of Cudgen Nature Reserve.</p>	<p>The environmental protection zones and buffers include and are generally larger than the mapped SEPP14 wetlands and therefore it is logical that the outer edge of the buffers be clearly delineated rather than the SEPP14 boundary.</p> <p>Inclusion of the words "adjacent to or adjoining that stage" is required to clarify that the condition only applies to delineation of areas adjacent to or adjoining works.</p>
<p>Geotechnical Certification</p> <p>135.</p> <p>1) Prior to issue of the first Subdivision Certificate for any stage of the subdivision of Precinct 5, the consultant geotechnical engineer is to certify the following on the site:</p> <p>a. Level 1 Certification for the earthworks by a Registered Geotechnical Engineer in accordance with AS 3798 2007 (Guidelines on Earthworks for Commercial and Residential Development).</p>		

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
b. All lots in Precinct 5 are to be certified as being sound for building construction purposes, classifying the soil type, and addressing the adequate bearing capacities of the soils in accordance with AS 2870, Residential Slabs and Footings Construction and the submission of soil compaction and bearing capacity test results for the filled areas.	Delete 135(1)b.	This condition is onerous and unreasonable. Level 1 certification as required by Condition 135(1a) is normal practice at the subdivision stage and certification for building design and construction is normally the responsibility of the future owner/developer of individual lots.
2) This certification shall be provided to the PCA prior to the release of the Subdivision Certificate for the first stage of the project.		
Damage to Property 138. 1) Any damage to property (including pavement damage) is to be rectified to the satisfaction of the PCA prior to the issue of a Subdivision Certificate. 2) Any work carried out by council to remove material from the roadway will be at the Proponent's expense and any such costs are payable prior to the issue of a Subdivision Certificate for each stage of the subdivision of Precinct 5.	1) Any damage to public property (including pavement damage) is to be rectified to the satisfaction of the PCA prior to the issue of a Subdivision Certificate.	Having regard to Council's standard condition and Conditions 4 and 136, it is considered that this condition should only apply to public property.
Registration of Easements / Restrictions to Use / Rights of Carriageway		
142. 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the Conveyancing Act 1919, including (but not limited to) the following: a) Easements for sewer, water supply and stormwater/drainage over all public services/infrastructure on private property. b) Stormwater/drainage easements are to be placed over all relevant surface drains, all subsurface drains and inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.		

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
<p>c) A restriction to the land use shall be placed on the lots containing an asset protection zone requiring the asset protection zone to be maintained as outlined within section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document Standards for asset protection zones.</p> <p>d) A Restriction as to User on all residential lots prohibiting the keeping of cats within the site.]</p> <p>e) All existing powerlines are to have an easement registered on title over the location of the powerlines and the land transferred to Essential Energy prior to dedication of any land to the Office of Environment and Heritage.</p> <p>f) A Restriction as to User over all private allotments abutting the acoustic fence within Precinct 5: Certification shall be received from an appropriately qualified acoustic engineer certifying that an acoustic building shell assessment has been undertaken in accordance with Australian Standard AS3671:1989 Acoustics - Road traffic noise intrusion - Building Sitting and Construction to achieve satisfactory internal noise levels prescribed in AS/NZS 2107:1987 Acoustics - Recommended Design Sound Level and Reverberation Times for Building Interiors. The assessments are applicable to any second and subsequent level, or equivalent level, habitable spaces.</p> <p>g) A Restriction as to User burdening all private allotments abutting any acoustic fence making the landowner responsible for the acoustic fence in perpetuity, including maintenance and replacement.</p> <p>h) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire 2006 Guidelines and the NSW Rural Fire Service's document Standards for asset protection zones as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.</p>	<p>Delete 142(1)(h).</p>	<p>Deletion of this condition is requested on the basis that it is unreasonable and unnecessary. Furthermore, the Land and Environment Court does not generally support covenants and title restrictions to reinforce development consent or project approval conditions.</p>

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TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
		<p>In addition, Part B, Section 5.6, Control (1)(b) of the Kings Forest Development Code (as amended on 11 August 2013), requires that the Plan of Development must include "a notation that development on the dwellings/buildings adjacent to asset protection zones is subject to the requirements of Planning for Bushfire Protection 2006 and AS3959-2009 Construction of Buildings in Bushfire Prone Areas."</p> <p>In view of the above circumstances, we consider that Condition 142(1)(h) is unreasonable and unnecessary.</p>
2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of council.		
3) Pursuant to Section 88BA of the Conveyancing Act 1919 (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened, and for costs to be shared equally or proportionally on an equitable basis		

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6.0 ENVIRONMENTAL ASSESSMENT

Modification of the Project Approval as proposed involves minor changes to conditions to enable the project to proceed in an efficient, viable and timely manner.

The proposed modifications do not change the scale, layout and yields of the project.

In the circumstances, it is therefore submitted that the Environmental Assessment accompanying the original Concept Plan Approval provides an adequate Environmental Assessment of the modified project.

7.0 CONCLUSION

Modification of the conditions and terms of the approval as proposed is authorised by Section 75W (1)(a) and (b) of the Environmental Planning and Assessment Act, 1979 (as amended).

The proposed modifications do not give rise to any physical changes to the scale, nature or footprint of the approved Concept Plan and therefore no impacts other than those addressed in the original Environmental Assessment are likely to arise.

The proposed modification of the Concept Plan is considered to be sustainable and in the public interest and therefore approval of the application is respectfully requested.

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ANNEXURE A **Major Project Approval No. 08_0194, Issued by the Planning and Assessment
Commision on 11 August 2013**

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

Modification of Major Project No. 08_0194 (Mod 1)
Project No: KFOR 13/125 – December 2013

Kings Forest
Tweed Coast Road, Kingscliff