

## + STATEMENT OF ENVIRONMENTAL EFFECTS

MODIFICATION OF MAJOR PROJECT APPROVAL  
NO. 08\_0194 as Modified (MOD 10)

KINGS FOREST STAGE 1 – CONDITIONS 5, 35, 40 TO 44, 47 & 48

At Kings Forest, Tweed Coast Road, Kingscliff

PREPARED FOR: **Project 28 Pty Ltd**

PREPARED BY: **DAC Planning Pty Ltd**

July 2020

[dacplanning.com.au](http://dacplanning.com.au)

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## MODIFICATION OF MAJOR PROJECT APPROVAL NO. 08\_0194 – AS MODIFIED (MOD10)

### AT KINGS FOREST, TWEED COAST ROAD, KINGSCLIFF

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#### 1.0 INTRODUCTION AND BACKGROUND

Project 28 Pty Ltd (the owner of the land) has commissioned DAC Planning Pty Ltd to prepare an application under Section 4.55(1A) of the Environmental Planning and Assessment Act for modification of Major Project Approval No. 08\_0194 (MOD10) which relates to a residential subdivision at Kings Forest.

Following consultations with Tweed Shire Council (see **Appendix 3**) this Application seeks to amend Conditions 5, 35, 40 to 44, 47 and 48 to change the hold point for compliance and correct an administrative error in Condition 42.

#### 1.1 Background

On 19 August 2010, the Minister for Planning issued Concept Plan Approval No. 06\_0318 in respect of Lots 76, 272, 323 and 326 in DP 755701, Lot 6 DP 875446, Lot 2 DP 819015, Lot 1 DP 705497, Lot 40 DP 7482, Lot 37A DP 13727, Lot 38A DP 13727, Lot 38B DP 13727, Lot 1 DP 129737, Lot 1 DP 781633 and Lot 7 DP 875447 for the carrying out of:

- ♦ Residential development for approximately 4500 dwellings;
- ♦ Town centre and neighbourhood centre for future retail and commercial uses;
- ♦ Community and education facilities;
- ♦ Employment land;
- ♦ A golf course;
- ♦ Open space;
- ♦ Wildlife corridors;
- ♦ Protection and rehabilitation of environmentally sensitive land;
- ♦ Utility services infrastructure;
- ♦ Water management areas and lake; and
- ♦ Roads and pedestrian and bicycle paths.

The current modified Concept Plan description is as follows:

Concept Plan approval is granted for the project as described below:

- ♦ Residential development for approximately 4500 dwellings;
- ♦ Town Centre and neighbourhood centre for future retail and commercial uses;
- ♦ Community and education facilities;
- ♦ Employment land;
- ♦ a Golf course;
- ♦ open Space;
- ♦ wildlife Corridors;
- ♦ Protection and rehabilitation of environmentally sensitive land;
- ♦ Utility services infrastructure;
- ♦ Water management areas and lake; and
- ♦ Roads, bicycle and pedestrian network.

On 22 December 2010 the Concept Plan Approval was modified (MOD 1).

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On 11 August 2013, the Concept Plan Approval was further modified (MOD 2) in conjunction with approval of the Kings Forest Stage 1 Project Application No. 08\_0194.

On 16 May 2014, the Concept Plan Approval was further modified (MOD 3).

On 20 November 2014, the Concept Plan Approval was further modified (MOD 4).

On 10 November 2015, the Concept Plan was further modified (MOD 5).

On 24 May 2018, the Concept Plan was further modified (MOD 8).

A copy of the Consolidated Concept Plan Approval (as modified) is provided at **Appendix 1**.

## **1.2 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 (as modified) in respect of:

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 13727;  
Lot 38B DP 13727;  
Lot 1 DP 129737;  
Lot 1 DP 781633;  
Lot 7 DP 875447; ~~and,~~  
Lot 37A DP 13727,  
Lot 2 DP 1159231 (closed road)  
Lot 1 DP 1178256 (closed road); and,  
Lot 1, 2 & 3 DP 11757616 (closed roads).

The current modified Project Description is as follows:

Kings Forest Residential Subdivision Stage 1 Bulk Earthworks, Roadworks and Subdivision of Precinct 5, including:

- subdivision of the site into ten development lots in 4 stages;
- bulk earthworks across the site;
- roadworks 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 precincts; and
  - construction of two roads providing access to the southern site precincts;
- Plan of Development for Precinct 5;
- development of 998 sqm of floorspace for a service station and food and drink premises 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:
  - one townhouse lot (7,860sqm)
  - 37 terrace house lots (minimum lot size 150sqm)

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- 25 duplexes (minimum lot size 450sqm)
  - 192 zero lot dwellings (minimum lot size 240sqm)
  - 121 traditional detached dwellings (minimum lot size 400sqm)

On 16 May 2014, the Project Approval was modified (MOD 1).

On 20 November 2014, the Project Approval was further modified (MOD 2).

On 20 February 2017, the Project Approval was further modified (MOD 3, Precinct 1 – Land and Environment Court).

On 8 May 2019, the Project Approval was further modified (MOD 4).

On 21 December 2017, the project was further modified (MOD 6).

On the 24 May 2018, the approval was further modified to extend the lapse date (modified by the Department of Planning & Environment) and Condition A18 was inserted on 17 July 2018 (Land & Environment Court) (MOD 7).

On 26 November 2019, the Approval was further modified by deleting Condition 8, amending Condition 14 and amending Condition 23 (MOD8).

On 19 March 2020 the MOD9 Application was withdrawn.

A copy of the Consolidated Project Approval incorporating Modifications 1, 2, 3, 4, 6, 7 and 8 is attached at **Appendix 2**.

On 31 May 2019, an Order was published in the Government Gazette No. 55 declaring the Kings Forest project to be State Significant Development. Therefore, this Modification Application is submitted under Section 4.55 of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 115 of the Environmental Planning and Assessment Regulation 2000. However, in accordance with Clause 3BA(6) of Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, the threshold test of substantially the same development is between the most recently modified Approval and the proposed modified Approval.

## 2.0 CONSULTATIONS

The DoPIE was consulted on 23 June 2020 by way of a letter dated 19 June 2020 and a request for a Scoping Meeting. In summary, Departmental Officers advised on 23 June 2020 that the proposed changes are likely to fall within the scope of Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (as amended).

On 23 June 2020 Tweed Shire Council were consulted by way of a letter dated 19 June 2020 in relation to the proposed changes to the conditions, following which Council advised on 30 June 2020 (see **Appendix 3**) in relation to Condition 35 that:

*“Council Officers have no objection to the proposed modification of Condition 35 as above.”*

Council also made further comments on the proposed amendments to Conditions 40 to 44, 47 and 48 and advised as follows:

*“As such Council has no objection to modifying the above conditions to specify the approval deadline as ‘prior to issue of a construction certificate for bulk earthworks’, with this being the first Construction Certificate which will be issued.”*

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### 3.0 THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

Pursuant to Clause 115 of the Regulation, an application for modification of a development consent is required to contain information as discussed below.

#### a) The Name and Address of the Applicant

The applicant for this Section 4.55(1A) Application is Project 28 Pty Ltd, P O Box 1914 Surfers Paradise QLD 4217. Additional details are provided on the Application Form.

#### b) The Development to be Carried Out Under Major Project Approval No. MP08\_0194

The development to be carried out under MP08\_0194 (as modified) is described in Section 1.2 of this Report.

#### c) Address and Formal Particulars of Title of the Land

Formal particulars of the title of the land are contained in Section 1.2 of this Report.

#### d) Description of the Proposed Modification to Major Project Approval No. MP08\_0194 (as modified)

Condition 5 of the Approval is in the following terms:

***“Earthworks Prohibited in Ecological Buffers***

5. *Prior to the issue of the first construction certificate for bulk earthworks, all civil works drawings shall be amended and submitted to the department for approval. The amended plans must clearly demonstrate that there will be no earthworks activities in the full 50 metre width of the ecological buffers anywhere across the site, with the exception of Precinct 5, as outlined in Condition A12 above and Roads 9, 10 and 23 that traverse the ecological buffers to access the southern and western precincts.”*

Preparation of the final suite of Civil Works Plans will take a considerable time. Preparation and approval of these plans prior to the issue of a Construction Certificate for bulk earthworks will significantly delay commencement of the project. The Bulk Earthworks Plans are nearing completion and approval and these Plans will demonstrate that there will be no bulk earthworks in the 50m ecological buffers (except Precinct 5). Accordingly, a more appropriate hold point for approval of the Civil Works Drawings by the Department is prior to the issue of a Construction Certificate for civil works.

Condition 35 of the Approval is in the following terms:

***“Landscape Plan***

35. *A revised Landscape Plan by a qualified landscape architect must be submitted for all areas of casual open space, structured open space, cycleways, pedestrian walkways, fauna crossings, vegetated stormwater treatment facilities, and streetscapes to be dedicated to council. Such a plan must be approved by council prior to the issue of a Construction Certificate for Stage 1 bulk earthworks. The Plan shall:*
- 1) *Include a planting schedule. Species selection shall be limited to locally occurring native species.*

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- 2) *Include embellishments that do not exceed the requirements of council's Subdivision Manual (Section A5 of the Tweed Development Control Plan) (as in force at the date of this approval) and Development Design Specification (D14) (as in force at the date of this approval) and related Standard Drawings (as in force at the date of this approval) and include grassing, landscaping, seating, playground equipment and shade cover.*
  - 3) *Address the standard and extent of streetscaping such that it will not place undue maintenance requirements on Council following the establishment period. This includes elimination or redesign of any streetscaping features such as median and roundabout plantings, which require the closure of traffic lanes in order for workers to carry out routine maintenance in a safe manner; the size and location of large trees in relation to stormwater facilities and underground services; and the number and location of garden beds in road reserves.*
  - 4) *Include details showing the final drainage, edging, paving, surface finishes, retaining wall and any other landscape elements in sufficient detail to fully describe the proposed landscape works.*
  - 5) *Comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.*
  - 6) *Include details showing how all landscaping elements under the plan shall be maintained in accordance with the Plan into perpetuity.*
  - 7) *Be consistent with the Landscape Plan for Precinct 1 and the Stage 1 Statement of Landscape Intent.*
  - 8) *Be compatible with the Kings Forest Stage 1 Management Plan."*

In summary, the Condition requires the Landscaping Plan to be approved by Council prior to the issue of a Construction Certificate for Stage 1 bulk earthworks. The requirement to have the revised Landscape Plan approved by Council prior to the issue of a Construction Certificate for bulk earthworks will delay commencement of the project by approximately 6 months.

In addition, there is no logical reason to require the Plan prior to the issue of a Construction Certificate for bulk earthworks. A more appropriate hold point is prior to the issue of a Construction Certificate for civil works, because at this stage final landforms and design details will be known to ensure that the landscaping integrates with the Construction Certificate Drawings for the civil works.

Tweed Shire Council has been consulted in relation to deferring the timing of the requirement for approval of the amended Landscaping Plan and Council Officers have no objections (see emails 16 June 2020, 30 June 2020 and **Appendix 3**) to the modification of the timing to defer approval of the Landscape Plan required under Condition 35 until prior to the issue of a Construction Certificate for Stage 1 civil works.

Conditions 40, 41, 42, 43, 44, 47 and 48 of MP08\_0194 as modified are in the following terms:

***"Vegetation Management Plans***

***40.***

- 1) *The Works Schedule of all Vegetation Management Plans shall be amended to include "Assisted natural regeneration" as the preferred Proposed Measure for Works Areas 2, 13 and Additional Work Areas and wherever significant natural regeneration is occurring within the EPZ and/or ecological buffer areas. This approach should be adopted in preference to revegetation or rehabilitation programs, incorporated as a guiding principle in the Statement of Commitments and relevant plans.*

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- 2) The final Vegetation Management Plans shall be prepared in consultation with Council and submitted to the Secretary for approval within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act, or prior to issue of any construction certificate, whichever occurs first.

**Buffer Management Plans**

**41.**

- 1) Figures 10 and 10A to 10L shall be revised as necessary to ensure that spatial overlap of heath revegetation, Koala food tree planting and Wallum Sedge Frog compensatory habitat is minimised.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) The final Buffer Management Plans shall be prepared in consultation with Council and submitted to the Secretary for approval within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act of this approval or prior to issue of any construction certificate, whichever occurs first.

**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.~~
  - ~~2) The final Weed Management Plans shall be prepared in consultation with Council and submitted to the Director General for approval within 12 months 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act.~~
  - ~~3) of this approval or prior to issue of any construction certificate, whichever occurs first.~~
42. The Weed Management Plans shall be amended to ensure that:
- 1) Control of all weeds will occur:
    - a. in Environmental Protection Zones located on the Kings Forest site; and
    - b. for a distance of 20 metres into the adjacent Cudgen Nature Reserve.
  - 2) Control of Slash Pine only will occur for a further distance of 80 metres into Cudgen Nature Reserve.
  - 3) Weed management activities should be undertaken utilizing bush regeneration techniques including stem injection.

**Comment**

Item 10 of the MOD 1 Instrument of Approval requires the insertion of a new Condition 42.

However, Item 11 then purports to require deletion of the following words.

*“12 months of this approval” and insert instead the words “6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environment Protection and Biodiversity Conservation Act”.*

Those words are not in the new Condition 42 required by Item 10 and in our view, the inclusion of Item 11 is simply an error.

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It is therefore proposed to amend Condition 42 to correct the error and to insert a new subclause requiring compliance prior to the issue of a Construction Certificate for Stage 1 bulk earthworks.

**Threatened Species Management Plans**

43.

- 1) Proposed "melon hole" creation shall not be permitted in Acid Frog Compensatory Areas 5, 6, 7 and 8. Details of alternative offsetting arrangements for the loss of Wallum Froglet Habitat across the site must be included in the final Threatened Species Management Plan.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) The species list in Appendix 3 of the Threatened Species Management Plan – Precincts 1 and 5, James Warren & Associates, August 2012, for restoration works within the Precinct 1 ecological buffer shall be revised to demonstrate that species used in restoration works within and adjacent to the Littoral Rainforest within Precinct 1 to include only those species known from the patch or other locally-occurring rainforest species.
- 4) Details of whether and how the proposed removal of sediment from Blacks Creek may impact upon threatened wetland bird species (black necked stork, black bittern) must be included in the Plan, including any proposed mitigation measures.
- 5) The final Threatened Species Management Plans shall be prepared in consultation with Council and submitted to the Secretary for approval within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.

**Feral Animal Management Plan**

44.

- 1) The implementation schedule of the Feral Animal Management Plan shall be revised to include the following details as relevant to the Precincts that the plan covers:
  - a. Estimated number of resources required for trapping activities, capture activities and habitat removal activities
  - b. Estimated resources required for monitoring actions
- 2) The Feral Animal Management Plan is to be revised to include mitigation and management actions for the control of Biting Insects, and consistent with Section A6 Biting Midge and Mosquito Controls of the Tweed DCP 2008.
- 3) The final Feral Animal Management Plan shall be prepared in consultation with Council and submitted to the Secretary for approval within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.

**Flora and Fauna Monitoring Report**

47. The Flora and Fauna Monitoring Report (FFMR) should be revised to the satisfaction of OEH as follows:
  - 1) The FFMR framework should be revised to ensure that monitoring of impacts in relation to threatened wetland bird species (black-necked stork, black bittern) takes suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek.
  - 2) Table 4 – Threatened Fauna shall include the requirement to report fauna monitoring results to Council and OEH
  - 3) The discussion of methodology in relation to monitoring of Koala should be more fully developed than that provided in Table 5 and Section 5.3, to the satisfaction of OEH

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- 4) *The monitoring of impacts in relation to threatened wetland bird species (Table 12) should take suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek, and be consistent with actions specified in the Drain Maintenance Management Plan and Threatened Species Management Plans.*
- 5) *The results of all monitoring of feral animals (Table 13) shall be additionally reported to OEHL to assist in efforts to co-manage any feral animal problems on and adjacent to the site.*
- 6) *The final Flora and Fauna Monitoring Report shall be prepared in consultation with Council and submitted to the Secretary for approval within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.*

#### **Summary of Management Plans**

48. *The Summary of Management Plans (SOMP) shall be revised to ensure consistency with all relevant management plans to the satisfaction of the Secretary within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first."*

In relation to Conditions 40, 41, 42, 43, 44, 47 and 48, the 6 month timeframe following approval of the EPBC Act Application No. 2012/2328 (approved on 21 May 2015) was the 21 November 2015 which has, of course, expired. This date is applicable because it has occurred before the issue of any Construction Certificate.

It should be noted that Condition 45A requires approval of a revised KPOM prior to the issue of any Construction Certificate. The revised KPOM was approved on 17 December 2019. The KPOM is the key Management Plan required prior to commencing any work at Kings Forest and the bulk earthworks would be carried out in accordance with that Plan.

The proposed Management Plans required by Conditions 41, 42, 43, 44, 47 and 48 were referred to Tweed Shire Council for comment on the dates shown in **Table 1**. The proponent is awaiting a response from Council in relation to the Management Plans.

| <b>TABLE 1</b>   |                                    |                                                                                                                      |
|------------------|------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| <b>Condition</b> | <b>Plan</b>                        | <b>Date Sent to TSC</b>                                                                                              |
| 40               | Vegetation Management Plan         | Precinct 1-5 – 22.04.20<br>Precinct 6-11 – 24.04.20<br>Precinct 12-14 – 14.05.20                                     |
| 41               | Buffer Management Plan             | Precinct 1-5 – 22.04.20<br>Precinct 6-14 – 24.04.20                                                                  |
| 42               | Weed Management Plan               | Precinct 1-5 – 22.04.20<br>Precinct 6-11 – 24.04.20<br>Precinct 12-14 – 14.05.20                                     |
| 43               | Threatened Species Management Plan | Precinct 1-5 – 22.04.20<br>Precinct 6-11 – 24.04.20<br>Precinct 12-14 – 14.05.20                                     |
| 44               | Feral Animal Management Plan       | 14.05.20                                                                                                             |
| 47               | Flora and Fauna Monitoring Report  | 23.06.20                                                                                                             |
| 48               | Summary of Management Plans        | The summary of management plans is approximately 95% complete but can't be finalised until all the MPs are accepted. |

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In the circumstances and having regard to Tweed Shire Council's comments at **Appendix 3**, the Department is requested to modify these Conditions deleting reference to the EPBC Act Approval and require compliance prior to the issue of a Construction Certificate for Stage 1 bulk earthworks rather than prior to any Construction Certificate.

The proposed modifications to the Conditions are as follows:

#### **Amended Condition 5**

##### **Earthworks Prohibited in Ecological Buffers**

5. Prior to the issue of the first construction certificate ~~for bulk earthworks for~~ **Stage 1 civil works**, all civil works drawings shall be amended and submitted to the Department for approval. The amended plans must clearly demonstrate that there will be no earthworks activities in the full 50 metre width of the ecological buffers anywhere across the site, with the exception of Precinct 5, as outlined in Condition A12 above and Roads 9, 10 and 23 that traverse the ecological buffers to access the southern and western precincts.

#### **Amended Condition 35**

##### **Landscape Plan**

35. A revised Landscape Plan by a qualified landscape architect must be submitted for all areas of casual open space, structured open space, cycleways, pedestrian walkways, fauna crossings, vegetated stormwater treatment facilities, and streetscapes to be dedicated to council. Such a plan must be approved by council prior to the issue of a Construction Certificate ~~for Stage 1 bulk earthworks for~~ **Stage 1 civil works**. The Plan shall:
- 1) Include a planting schedule. Species selection shall be limited to locally occurring native species.
  - 2) Include embellishments that do not exceed the requirements of council's Subdivision Manual (Section A5 of the Tweed Development Control Plan) (as in force at the date of this approval) and Development Design Specification (D14) (as in force at the date of this approval) and related Standard Drawings (as in force at the date of this approval) and include grassing, landscaping, seating, playground equipment and shade cover.
  - 3) Address the standard and extent of streetscaping such that it will not place undue maintenance requirements on Council following the establishment period. This includes elimination or redesign of any streetscaping features such as median and roundabout plantings, which require the closure of traffic lanes in order for workers to carry out routine maintenance in a safe manner; the size and location of large trees in relation to stormwater facilities and underground services; and the number and location of garden beds in road reserves.
  - 4) Include details showing the final drainage, edging, paving, surface finishes, retaining wall and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
  - 5) Comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
  - 6) Include details showing how all landscaping elements under the plan shall be maintained in accordance with the Plan into perpetuity.
  - 7) Be consistent with the Landscape Plan for Precinct 1 and the Stage 1 Statement of Landscape Intent.
  - 8) Be compatible with the Kings Forest Stage 1 Management Plan."

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## Amended Condition 40

### Vegetation Management Plans

#### 40.

- 1) The Works Schedule of all Vegetation Management Plans shall be amended to include “Assisted natural regeneration” as the preferred Proposed Measure for Works Areas 2, 13 and Additional Work Areas and wherever significant natural regeneration is occurring within the EPZ and/or ecological buffer areas. This approach should be adopted in preference to revegetation or rehabilitation programs, incorporated as a guiding principle in the Statement of Commitments and relevant plans.
- 2) The final Vegetation Management Plans shall be prepared in consultation with Council and submitted to the Secretary for approval ~~within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act, or~~ prior to issue of ~~any a~~ construction certificate for Stage 1 bulk earthworks, ~~whichever occurs first.~~

## Amended Condition 41

### Buffer Management Plans

#### 41.

- 1) Figures 10 and 10A to 10L shall be revised as necessary to ensure that spatial overlap of heath revegetation, Koala food tree planting and Wallum Sedge Frog compensatory habitat is minimised.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) The final Buffer Management Plans shall be prepared in consultation with Council and submitted to the Secretary for approval ~~within 6 months of the date of determination of the application (No. 2012/2328) mad under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act of this approval or~~ prior to issue of ~~any a~~ construction certificate for Stage 1 bulk earthworks, ~~whichever occurs first.~~

### 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.~~
- 2) ~~The final Weed Management Plans shall be prepared in consultation with Council and submitted to the Director General for approval within 12 months 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act.~~
- 3) ~~of this approval or prior to issue of any construction certificate, whichever occurs first.~~

## Amended Condition 42

42. The Weed Management Plans shall be amended to ensure that:
  - 1) Control of all weeds will occur:
    - a. in Environmental Protection Zones located on the Kings Forest site;
  - and

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- b. for a distance of 20 metres into the adjacent Cudgen Nature Reserve.
  - 2) Control of Slash Pine only will occur for a further distance of 80 metres into Cudgen Nature Reserve.
  - 3) Weed management activities should be undertaken utilizing bush regeneration techniques including stem injection.
  - 4) **The final Weed Management Plans shall be prepared in consultation with Council and submitted to the Secretary for approval prior to issue of a construction certificate for Stage 1 bulk earthworks.**

#### **Amended Condition 43**

##### **Threatened Species Management Plans**

43.

- 1) Proposed “melon hole” creation shall not be permitted in Acid Frog Compensatory Areas 5, 6, 7 and 8. Details of alternative offsetting arrangements for the loss of Wallum Froglet Habitat across the site must be included in the final Threatened Species Management Plan.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) The species list in Appendix 3 of the Threatened Species Management Plan – Precincts 1 and 5, James Warren & Associates, August 2012, for restoration works within the Precinct 1 ecological buffer shall be revised to demonstrate that species used in restoration works within and adjacent to the Littoral Rainforest within Precinct 1 to include only those species known from the patch or other locally-occurring rainforest species.
- 4) Details of whether and how the proposed removal of sediment from Blacks Creek may impact upon threatened wetland bird species (black necked stork, black bittern) must be included in the Plan, including any proposed mitigation measures.
- 5) The final Threatened Species Management Plans shall be prepared in consultation with Council and submitted to the Secretary for approval **within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or** prior to issue of **any a** construction certificate **for Stage 1 bulk earthworks, whichever occurs first.**

#### **Amended Condition 44**

##### **Feral Animal Management Plan**

44.

- 1) The implementation schedule of the Feral Animal Management Plan shall be revised to include the following details as relevant to the Precincts that the plan covers:
  - a. Estimated number of resources required for trapping activities, capture activities and habitat removal activities
  - b. Estimated resources required for monitoring actions
- 2) The Feral Animal Management Plan is to be revised to include mitigation and management actions for the control of Biting Insects, and consistent with Section A6 Biting Midge and Mosquito Controls of the Tweed DCP 2008.

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- 3) The final Feral Animal Management Plan shall be prepared in consultation with Council and submitted to the Secretary for approval ~~within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or~~ prior to issue of ~~any a~~ construction certificate for Stage 1 bulk earthworks, ~~whichever occurs first.~~

#### **Amended Condition 47**

##### **Flora and Fauna Monitoring Report**

47. The Flora and Fauna Monitoring Report (FFMR) should be revised to the satisfaction of OEH as follows:
- 1) The FFMR framework should be revised to ensure that monitoring of impacts in relation to threatened wetland bird species (black-necked stork, black bittern) takes suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek.
  - 2) Table 4 – Threatened Fauna shall include the requirement to report fauna monitoring results to Council and OEH
  - 3) The discussion of methodology in relation to monitoring of Koala should be more fully developed than that provided in Table 5 and Section 5.3, to the satisfaction of OEH
  - 4) The monitoring of impacts in relation to threatened wetland bird species (Table 12) should take suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek, and be consistent with actions specified in the Drain Maintenance Management Plan and Threatened Species Management Plans.
  - 5) The results of all monitoring of feral animals (Table 13) shall be additionally reported to OEH to assist in efforts to co-manage any feral animal problems on and adjacent to the site.
  - 6) The final Flora and Fauna Monitoring Report shall be prepared in consultation with Council and submitted to the Secretary for approval ~~within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or~~ prior to issue of ~~any a~~ construction certificate for Stage 1 bulk earthworks, ~~whichever occurs first.~~

#### **Amended Condition 48**

##### **Summary of Management Plans**

48. The Summary of Management Plans (SOMP) shall be revised to ensure consistency with all relevant management plans to the satisfaction of the Secretary ~~within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or~~ prior to issue of ~~any a~~ construction certificate for Stage 1 bulk earthworks, ~~whichever occurs first.~~

#### **e) Effect of Proposed Modification**

The modification is intended to defer the hold points for compliance with the Conditions and correct anomalies in Condition 42. The modifications are essentially administrative in nature and in this context, it is considered that the effects of the proposed modifications will be minimal.

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All other relevant conditions of approval will continue to apply to the issue of a Construction Certificate for bulk earthworks, including in particular, Conditions A12 and 5 (as proposed to be modified).

In this regard, the proposed modification is to be made pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979.

**f) Description of Expected Impacts of the Modification**

Having regard to the administrative nature of the proposed modifications, it is not expected that the modified project will have any significant adverse impacts.

In granting approval for the original Project Application, the Planning and Assessment Commission has accepted that the potential impacts associated with the proposal were not unreasonable.

Similarly, in approving MODs 1 to 4, 6, 7, and 8, the approval authority has accepted that the project as modified will not have any unacceptable adverse impacts.

In summary, given the administrative nature of the proposed modifications to the conditions and as the KPOM has been approved and Draft Management Plans have been prepared, the potential impacts are likely to be minimal.

**g) An undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved**

As indicated in Section 5.0, the modification as proposed will not result in any significant physical changes to the project as approved. Therefore, as modified, the project will remain substantially the same as the most recently modified approval.

**h) If the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner)**

Owner's Consent is **attached**.

**i) A statement as to whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56), and, if the consent authority so requires, must be in the form approved by that authority.**

The application is made to the Minister for Planning as the Consent Authority. The relevant Application Form is attached to the application.

**4.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (AS AMENDED) & ENVIRONMENTAL PLANNING AND ASSESSMENT (SAVINGS, TRANSITIONAL AND OTHER PROVISIONS) REGULATION, 2017**

Clause 3BA of Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation, 2017 (the Regulation) provides that a Project Approval cannot be modified under Section 75W of Part 3A (as saved for transitional projects) after 1 March 2018. In addition, Kings Forest is now a State Significant Development. Therefore, this Modification Application is lodged under Section 4.55(1A) of the Environmental Planning and Assessment Act (EPAA), on the basis that it will involve minimal environmental impact.

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Section 4.55(1A) of the Act relates to modifications involving minimal environmental impact and is in the following terms:

***“(1A) Modifications involving minimal environmental impact***

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.”*

However, Clause 3BA(6) of Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 is in the following terms:

***“3BA Winding-up of transitional Part 3A modification provisions on cut-off date of 1 March 2018 and other provisions relating to modifications***

- (6) In the application of section 4.55 (1A) or (2) or 4.56 (1) of the Act to the following development, the consent authority need only be satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent (as last modified under section 75W):*
  - (a) development that was previously a transitional Part 3A project and whose approval was modified under section 75W,*
  - (b) development that was taken to be an approved project pursuant to clause 8J of the Environmental Planning and Assessment Regulation 2000 and whose consent was modified under section 75W.”*

Therefore, the threshold test requires a comparison between the most recently modified Approval and the proposed modified Approval.

With regard to Section 4.55(1A)(a), the proposed modifications to the conditions are unlikely to create more than minimal environmental impact given that it only involves administrative changes to the hold point for the approval of various plans and correction of anomalies in Condition 42. No changes to the overall design of the project or other conditions of approval are proposed.

There have been a number of Court Decisions in relation to the “substantially the same development test” for normal Part 4 Development Applications, Section 4.55(1(A))(b) requires the proposed modified development to be substantially the same as the original approved development. The principles established by the Court are considered to be applicable to the “substantially the same test” for this Modification Application.

Pursuant to Section 4.55(1A)(b)(as varied by Clause 3BA(6)), before the consent authority can modify the consent, it must be satisfied in relation to the threshold requirement that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent, as most recently modified (ie. MOD8).

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The Land and Environment Court has made a number of decisions in relation to this threshold question, as discussed in the following sections.

In *Moto Projects (No. 2) Pty Ltd v North Sydney Council* (1999) Bignold J described the following test in determining the threshold question:

*"The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (currently) approved development.*

*The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."*

Further, in *Wolgan Action Group Incorporated v Lithgow City Council* (2001) Talbot J addressed the question of "substantially the same development" in the context of Section 4.55.

In forming his view, Talbot refers to case law as follows (note relevant definitions underlined):

*"In Vacik Pty Limited v Penrith City Council (Stein J, NSWLEC, 18 February 1992, unreported), Stein J adopted a meaning for "substantially" where used in the earlier s 102(1)(a) of the EP&A Act as "essentially or materially or having the same essence". In *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 97 LGERA 433 at 440, Mason P expressly agreed with the view taken by Stein JA. Mason P also said, at p 439, that in the context of s 102 the verb modify meant "to alter without radical transformation" (see *Sydney City Council v Ilenace Pty Ltd* (1984) 3 NSWLR 414 at 421)". In *Standley* Stein JA also reiterated the view he expressed in *Vacik*.*

In *Standley*, Stein JA also reiterated the view he expressed in *Vacik*.

Following on from the tests established in these cases and based on numerous Land and Environment Court decisions, it is apparent that the following key principles apply:

- The comparison is undertaken at a general level rather than between detail;
- The question is whether the development as a whole is essentially or materially similar to the originally approved development;
- If the impacts of the modifications are minor, the modified development is more likely to be essentially or materially the same development;
- It is relevant to consider the magnitude of any physical changes to the development and any changes to the use of the land.

Having regard to the fact that the operational details of the development will not change and the key principles discussed above, it is submitted that the threshold question is satisfied on the basis that:

- The project, as a whole, will remain unchanged.

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- The proposed modification will not alter the statutory or policy compliance of the proposal, create any other material difference and does not give rise to any significant environmental impacts.
  - The likely impact of the modification is minor.
  - No changes to the nature, scale, intensity and lot layout of the development will occur.

Accordingly it is submitted that the proposed modification will not represent a substantial change to the originally approved Project Approval as most recently modified and that the proposed modification to the Approval will represent substantially the same development as the development for which the Approval was originally granted and subsequently modified.

It is therefore open to the consent authority to modify the approval as proposed.

Pursuant to Section 4.55(1A)(c), public notification of the proposed modification to the Approval is to be in accordance with the Regulation. Clause 117(2) of the Regulation states that the notification of Section 4.55(1A) Applications are to be in accordance with a Development Control Plan.

Clause 4.0 of the relevant Tweed Development Control Plan 2008, Section A11 – Public Notification Policy, states that the Plan only applies to modifications of Approvals under Section 4.55(2) of the EP&A Act 1979. Accordingly there is no requirement to advertise the subject application.

TDCP2008, Section A11 was repealed on 3 December 2019 and has been replaced by the Tweed Community Engagement and Participation Plan 2019-2024. Appendix 2: Land Use Notification Tables sets out Council's requirements for community consultation in relation to Development Applications.

Clause 5.13 of the Community Engagement and Participation Plan is as follows:

***"5.13 How will consent modifications or reviews be notified?"***

*Requests for a modification or review of determination will be notified in the same manner as the original application. If in the opinion of the relevant Council officer a modification application under Section 4.55 of the EP&A Act will have no additional impact on any adjoining or nearby properties, no notification will be required."*

We submit that the proposed Modification Application will have no additional impacts on any adjoining or nearby properties and therefore no notification is required.

In considering an application to modify an Approval under Section 4.55(1A) of the Act, Section 4.55(3) requires the consent authority to take into account relevant Section 4.15(1) matters.

Relevant Section 4.15(1) matters are addressed as follows:

**a) the provisions of:**

- i) Any Environmental Planning Instrument

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#### **4.1 State Environmental Planning Policy (State Significant Precincts) 2005**

Kings Forest was rezoned under State Environmental Planning Policy (State Significant Precincts) 2005 (SSD) on 10 November 2006 and subsequently amended on 10 September 2010.

The proposed modifications are not inconsistent with this Policy.

#### **4.2 Kings Forest Concept Plan No. 06\_0318 and Development Code**

The Concept Plan was approved on 19 August 2010 and subsequently modified on six occasions, most recently by Modification No. 8 Issued on 24 May 2018. The Concept Plan is the paramount Planning Instrument regulating development on the Kings Forest site.

The Kings Forest Development Code, which forms part of the Concept Plan was originally approved on 12 October 2010 and subsequently modified on three occasions, most recently by Mod 8 on 24 May 2018.

Clause 1.7 of the Kings Forest Development Code requires the Code to be read in conjunction with Tweed Development Control Plan 2008, Section A2 – Site Access and Parking Code, Section A3 – Development of Flood Liable Land, Section A4 – Advertising Signs Code, Section A5 – Subdivision Manual and Section A11 – Public Notification of Development Proposals. The following responses are provided in relation to each Section of TDCP2008.

##### **Section A2 – Site Access and Parking Code**

The proposed modifications have no implications for access and car parking.

##### **Section A3 – Development of Flood Liable Land**

The proposed modifications have no implications for the development of flood prone land.

##### **Section A4 – Advertising Signs Code**

The proposed modifications have no implications for this Code.

##### **Section A5 – Subdivision Manual**

The proposed modifications have no implications for this Code.

##### **Section A11 – Public Notification of Development Proposals**

This Section has been repealed and replaced by the Community Engagement and Participation Plan 2019-2024 which is addressed above.

The proposed modification is not inconsistent with the Concept Plan Approval or the Kings Forest Development Code.

##### **ii) Development Control Plans**

See comments above.

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iii) Planning Agreements

Not applicable.

iv) Provisions of the Regulations.

This Modification Application addresses relevant provision of the Regulations (see Section 4.0).

v) Any coastal zone management plan.

Not applicable.

**b) Likely Impacts of the Development**

Given the scale and nature of the proposed modification, no significant adverse impacts are likely to occur.

**c) The Suitability of the Site for the Development**

As acknowledged when the project was originally approved, the site was and remains suitable for, the proposed development.

**d) Any Submissions Made In Accordance With the Act or Regulations**

It is a matter for the Department to consider any submissions made in respect of the Modification Application.

**e) The Public Interest**

Under the provisions of the Far North Coast Regional Strategy (FNCRS) 2006-2031, the Kings Forest site is within the existing urban footprint.

Under the North Coast Regional Plan 2036 (NCRP), which replaces the FNCRS and came into force in March 2017, the Kings Forest site remains in the urban growth area footprint (Figure 18).

In the foreword, the Strategy states that new housing will be accelerated in other centres to maximise existing services, meet the community's diverse housing needs and to improve housing affordability.

New release areas, including Cumbalum, **Kings Forest**, Cobaki and Thrumster will be new communities providing the North Coast with greater housing choice (bold added).

The Regional Plan anticipates population growth of 76,200 in the period 2016-2036, meaning that 46,000 extra homes are required. The Regional Plan says that the 'minimum additional dwellings required' for the Tweed between 2016 and 2036 is 11,600. This is an increase from 44,450 dwellings in the Tweed in 2016 to 56,050 in 2036. The Regional Plan's Direction 22 is to deliver greater housing supply. Under this Direction the Regional Plan states that, having a ready supply of well-located land for residential development will create downward pressure on house prices, maximise the use of existing infrastructure and ensure that environmentally sensitive areas are avoided.

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Under the heading 'housing' the Regional Plan identifies the following priorities:  
Deliver housing in Kingscliff, Cobaki, Bilambil, Terranora, and **Kings Forest** ...  
Enhance housing diversity by increasing the number of homes in Tweed Heads, Kingscliff, Cobaki, **Kings Forest** and Dunloe Park (bold added) ...

In summary, the Regional Plan demonstrates the continuing relevance of the Concept Plan Approval and the Project Approval. Nonetheless, for completeness, it should be noted that:

- (a) The development incorporates significant measures to protect Koala Habitat and local ecological features.
- (b) The development addresses multiple community needs, ie the need for:
  - (i) housing;
  - (ii) employment of a kind suitable for integration into a master planned urban setting;
  - (iii) conservation and environmental protection; and
  - (iv) passive and active recreation.
- (c) It does this in a balanced way as a result of a careful and extensive assessment process. By addressing multiple needs within the overall site, a better outcome is achieved than if the site's use was devoted to a single purpose.
- (d) Agricultural and industrial use of the site would not deliver the environmental, social and economic benefits that flow from the development envisaged by the Concept Plan Approval and the Project Approval.
- (e) The environmental, social and economic objectives of the community are best served by the proposed use of the site, relative to the other possible uses of the site.

In summary, the project is consistent with the NCRP and the FNCRS.

As there has been no change in the statutory or strategic planning regime for the site since the original project was approved and as there are no significant physical changes to the scale, layout or intensity of the development, it is submitted that the proposed modification would not be inconsistent with the public interest and would not give rise to any significant adverse environmental impacts.

## 5.0 CONCLUSION

Modification of the conditions and terms of the Approval as proposed is authorised by Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (as amended).

The proposed modification does not give rise to any significant physical changes to the scale, nature or footprint of the approved Project and therefore no significant impacts other than those addressed in the original Environmental Assessments, subsequent Modification Assessments and this Report are likely to arise. The proposed modification of the Project Approval is considered to be sustainable and in the public interest and therefore approval of the application is respectfully requested.

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**APPENDIX 1**

**Consolidated Concept Plan Approval No. 06\_0318 (as modified), Incorporating  
Modifications 1, 2, 3, 4, 5 & 8**

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## Kings Forest Concept Plan 06\_0318 Consolidated Approval, incorporating

Modification No. 1, approved on 22 December 2010 (as shown in red)

Modification No. 2, approved on 11 August 2013 (as shown in blue)

Modification No. 3, approved on 16 May 2014 (as shown in green)

Modification No. 4, approved on 20 November 2014 (as shown in purple)

Modification No. 5, approved on 10 November 2015 (as shown in orange)

Note: In correspondence dated 24 June 2015 DoPE advised the proponent that the lapse date is now 11 August 2018

Modification No. 8, approved on 24 May 2018 (as shown with green highlighting)

### SCHEDULE 1

#### PART A – TABLE

|                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application made by:</b>                         | Project 28 Pty Ltd (a subsidiary within the Leda group of companies)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Application made to:</b>                         | Minister for Planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Project Application Number:</b>                  | 06_0318                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>On land comprising:</b>                          | Kings Forest, Kingscliff<br>Lots 76, 272, 323 & 326 in DP 755701, Lot 6 DP 875446, Lot 2 DP 819015, Lot 1 DP 706497, Lot 40 DP 7482, Lot 37A DP 13727, Lot 38A DP 13727, Lot 38B DP 13727, Lot 1 DP 129737, Lot 1 DP 781633, Lot 7 DP 875447, Lot 2 DP 1159231 (closed road), Lot 1 DP 1178256 (closed road) and Lots 1, 2 & 3 DP 1157616 (closed roads)                                                                                                                                                                                                                                   |
| <b>Local Government Area</b>                        | Tweed Shire Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>For the carrying out of:</b>                     | <ul style="list-style-type: none"> <li>♦ Residential development for approximately 4500 dwellings;</li> <li>♦ Town Centre and neighbourhood centre for future retail and commercial uses;</li> <li>♦ community and education facilities;</li> <li>♦ employment land;</li> <li>♦ a golf course;</li> <li>♦ open space;</li> <li>♦ wildlife corridors;</li> <li>♦ protection and rehabilitation of environmentally sensitive land;</li> <li>♦ utility services infrastructure;</li> <li>♦ water management areas and lake; and</li> <li>♦ roads and pedestrian and bicycle paths.</li> </ul> |
| <b>Type of determination:</b>                       | Concept Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Determination made on:</b>                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b><del>Date approval is liable to lapse:</del></b> | <del>5 years from the date of determination</del>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

## **PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 06\_0318**

### **Responsibility for other consents / agreements**

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

## PART C—DEFINITIONS

In this approval,

**Act** means the *Environmental Planning and Assessment Act 1979*.

**Advisory Notes** means advisory information relating to the approved development but do not form a part of this approval.

**BCA** means Building Code of Australia.

**Council** means Tweed Shire Council.

~~**Land to be dedicated to Council in the future** means the land to be dedicated to Council as identified on the Council Dedicated Land Plan.~~

~~**Council Dedicated Land Plan** means the 'Plan of Proposed Areas to be Dedicated to Council with Work Areas' prepared by Landsurv Pty Ltd dated 2 October 2012, Revision D.~~

**DECCW** means the Department of Environment Climate Change and Water.

**Department** means the Department of Planning or its successors.

~~**Director-General** means the Director-General of the Department or his/her nominee.~~

**Environmental Assessment** means the Environmental Assessment prepared by JBA Urban Planning Consultants Pty Ltd and dated 6 November 2008, including all Appendices.

**Environmental Management Plan** means the environmental management plans in Appendix 10 of the Preferred Project Report 2012.

**Future OEH Land** means the land identified in the "Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development" prepared by Landsurv Pty Ltd dated 23 August 2012, Revision C. Note: the dedicated lands may be used as an offset for biodiversity impacts in accordance with the policy applicable from time to time under which offsets for such impacts are assessed.

**KPoM** means the Koala Plan of Management (2009) prepared by Dr Frank Carrick.

**Minister** means the Minister for Planning.

~~**Offset Area** means the land proposed to be dedicated to the Office of Environment and Heritage as identified on the 'Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development' prepared by Landsurv Pty Ltd dated 23 August 2012, Revision C.~~

**Project** means the project as described in Condition A1 to this approval.

**PCA** means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

**Potential Council Land** means the lands identified as 'Potential Council Land' on the Potential Council Land Plan.

**Potential Council Land Plan** means the plan 'Potential Council Land Plan with Work Areas', prepared by Landsurv dated 6 December 2013, Revision E, as amended in accordance with condition B5.

**Preferred Project Report** means the Preferred Project Report prepared by JBA Urban Planning Consultants Pty Ltd dated 31 August 2009.

**Preferred Project Report 2012** means the Proponent's preferred project report lodged for project application MP08\_0194 and dated October 2012.

**Proponent** means Project 28 Pty Ltd or any party acting upon this approval.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

**Secretary** means the Secretary of the Department of Planning and Environment or his/her nominee.

**Stage 1** means development described in major project application number MP08\_0194.

**Subject Site** has the same meaning as the land identified in Part A of this schedule.

## SCHEDULE 2

### MODIFICATIONS AND REQUIREMENTS FOR FUTURE APPLICATIONS

#### PART A – TERMS OF CONCEPT APPROVAL

##### **A1 Project Description**

Concept plan approval is granted for the project as described below:

Residential development for approximately 4500 dwellings;  
 Town Centre and neighbourhood centre for future retail and commercial uses;  
 Community and education facilities;  
 employment land;  
 a golf course;  
 open space;  
 wildlife corridors;  
 protection and rehabilitation of environmentally sensitive land;  
 utility services infrastructure;  
 water management areas and lake; and roads, bicycle and pedestrian network.

##### **A2 Project in Accordance with Plans**

The project will be undertaken **generally** in accordance with the following drawings:

| Design, Landscape and Survey Drawings                  |          |                                                      |                                   |
|--------------------------------------------------------|----------|------------------------------------------------------|-----------------------------------|
| Drawing No.                                            | Revision | Name of Plan                                         | Date                              |
| <del>MPS 21 42 SK 102h</del>                           |          | <del>Concept Plan Kings Forest</del>                 | <del>December 2009</del>          |
| <del>Figure 5 Revised Vegetation Management Plan</del> |          | <del>Koala Tree Planting Plan</del>                  | <del>7 August 2009</del>          |
| <del>Figure 2A</del>                                   |          | <del>Heath Regeneration and Revegetation Areas</del> | <del>22 March 2010</del>          |
| <del>MPS 2142 SK 105f</del>                            |          | <del>Precinct Plan, Kings Forest</del>               | <del>August 2009</del>            |
| 1056-RD19                                              | A        | Kings Forest Cadastre Plan                           | 4 March 2008<br>December 2009     |
| 01                                                     | A B      | Revised Concept Plan                                 | 21 August 2012<br>5 December 2013 |
| 02                                                     | A        | Scope of Works                                       | 21 August 2012                    |
| 03                                                     | A        | Site Analysis                                        | 23 August 2012                    |
| 04                                                     | A B      | Revised Precinct Plan                                | 21 August 2012<br>5 December 2013 |
| 05                                                     | A B      | Revised Open Space Network                           | 21 August 2012<br>5 December 2013 |
| 06                                                     | A        | Road Hierarchy                                       | 23 August 2012                    |
| 07                                                     | A        | Potential Bus Route                                  | 23 August 2012                    |

|                                                        |   |                                                   |                 |
|--------------------------------------------------------|---|---------------------------------------------------|-----------------|
| 08                                                     | B | Density Matrix Summary                            | 12 October 2012 |
| 09                                                     | B | Development Matrix                                | 12 October 2012 |
| Figure 12 of Buffer Management Plan Precincts 1 & 5    | - | Revised Heath Regeneration and Revegetation Areas | 20 August 2012  |
| Figure 9 of Buffer Management Plan Precinct 2-4 & 6-14 | - | Revised Heath Regeneration and Revegetation Areas | 20 August 2012  |
| Figure 10 of Precinct 1 & 5 Buffer Management Plan     | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10A of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10B of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10C of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10D of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10E of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10F of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10G of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10H of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10I of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |
| Figure 10J of Precinct 1 & 5 Buffer Management Plan    | - | Proposed Compensatory Habitat                     | 15 October 2012 |

|                                                              |   |                               |                 |
|--------------------------------------------------------------|---|-------------------------------|-----------------|
| Figure 10K of<br>Precinct 1 & 5<br>Buffer<br>Management Plan | - | Proposed Compensatory Habitat | 15 October 2012 |
| Figure 10L of<br>Precinct 1 & 5<br>Buffer<br>Management Plan | - | Proposed Compensatory Habitat | 15 October 2012 |

except for:

- (1) any modifications which may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this approval.

### **A3 Project in Accordance with Documents**

The project will be undertaken in accordance with the following documents:

Environmental Assessment Documentation

- (1) Kings Forest Concept Plan Environmental Assessment Report prepared by JBA Urban Planning Consultants P/L, Volumes 1 and 2, October 2008.

Preferred Project Report Documentation

- (2) *Preferred Project Report* prepared by JBA Urban Planning Consultants P/L, Volumes 1, 2 and 3, August 2009.

Additional Information

- (3) Amendments to the Kings Forest Concept Plan Preferred Project Report prepared by JBA Urban Planning Consultants P/L, 5 November 2009.
- (4) Further amendment to the Kings Forest Concept Plan Preferred Project Report prepared by JBA Urban Planning Consultants P/L, 9 December 2009.
- (5) Finalisation of Flood and Climate Change Impact Assessment Summary prepared by Gilbert and Sutherland P/L, December 18 2009.
- (6) Kings Forest Aboriginal Cultural Heritage Assessment prepared by Everick Heritage Consultants P/L, January 2010.
- (7) Kings Forest Cultural Heritage Management Plan prepared by Everick Heritage Consultants P/L, January 2010.
- (8) Letter from James Warren and Associates to the Department of Planning in relation to clarification regarding heath regeneration/revegetation areas dated 18 March 2010, including Figure 2A Heath Regeneration and Revegetation Areas.

~~(9) Kings Forest Development Code~~

(9) Kings Forest Development Code ~~as amended by condition B6~~ Version 1.3 submitted with MP06\_0318 MOD 5.

(10) Project Application Environmental Assessment Report, Kings Forest Stage 1 Subdivision and Bulk Earthworks (MP08\_0194), prepared by JBA Planning dated November 2011.

(11) Preferred Project Report, Major Project Application No. 08\_0194 Kings Forest, Stage 1 Subdivision and Bulk Earthworks Tweed Shire, prepared by Darryl Anderson Consulting Pty Ltd dated October 2012.

#### **A4 Inconsistencies**

- (1) In the event of any inconsistency between:
  - (a) The conditions of this approval and the Statement of Commitments (at Schedule 3), the conditions of this approval prevail;
  - (b) The conditions of this approval and the drawings/documents referred to in conditions A3 and A4, the conditions of this approval prevail; and
  - (c) Any drawing/document listed in conditions A3 and A4 and any other drawing/document listed in conditions A3 and A4, the most recent document shall prevail to the extent of the inconsistency.
- (2) If there is any inconsistency between this concept plan approval and any project approval or development consent, this concept plan approval shall prevail to the extent of the inconsistency.

#### **A5 Lapsing of Approval**

In order that the approval remains relevant to the planning intent for the area, the approval shall lapse on 31 December 2016 2019 unless **building, engineering or construction work relating the works authorised by** works the subject of any related **project approval or development consent** application are physically commenced, **on the land,** on or before that lapse date. The ~~Director-General~~ Secretary may extend this lapse date if the proponent demonstrates to the satisfaction of the ~~Director-General~~ Secretary that the project remains current, appropriate and reflective of the best use of the site at the date the approval would otherwise lapse.

**Note: In correspondence dated 24 June 2015 DoPE advised the proponent that the lapse date is now 11 August 2018**

## PART B—MODIFICATIONS TO THE CONCEPT PLAN

### **B1 Koala Plan of Management – Ongoing Review**

The Koala Plan of Management, and the measures contained therein to offset the impact of the development on existing and future koala populations, shall be updated at each stage of development so that these measures remain relevant and effective and based on contemporary scientific data throughout the development of the Project the subject of this concept plan.

Each stage update shall be prepared in accordance with the requirements in C2 and subject to independent review by a suitably qualified person/s to the satisfaction of the ~~Director-General~~ Secretary.

### **B2 Annual Flora and Fauna Monitoring Report**

~~Within 12 months of this approval, or as otherwise determined by the Director-General, the Proponent shall prepare a draft outline of an Annual Flora and Fauna Monitoring Report to the satisfaction of the Director-General. The aim of the report is to collate all monitoring and reporting requirements from relevant documents listed in A3 and to identify any required corrective actions.~~

~~A baseline Monitoring Report is to be provided prior to construction commencing. The Annual Flora and Fauna Monitoring Report shall be prepared on an annual basis from the date of commencement of construction or as otherwise determined by the Director-General.~~

~~The Annual Flora and Fauna Monitoring Report shall be prepared by a suitably qualified person/s and include but not be limited to:~~

- ~~(1) The aims, objectives and methodology for the report;~~
- ~~(2) Baseline monitoring data focusing on existing populations of threatened species, including Wallum frog species and koalas;~~
- ~~(3) Performance criteria against which the effectiveness of the various separate management plans dealing with management of koalas, threatened species, buffers, weeds, vegetation and feral animals can be measured;~~
- ~~(4) Monitoring and reporting of fauna usage within Environmental Protection zones, ecological buffers and the golf course;~~
- ~~(5) Adaptive management procedures to ensure that the various separate management plans remain relevant and effective; and~~
- ~~(6) Monitoring and reporting of injuries or mortalities to koalas.~~
- ~~(7) Specific monitoring to measure any impact of the development on the adjacent Gudgen Nature Reserve and adaptive management procedures to ensure any impacts are minimised.~~

~~Within 12 months of this approval, or as otherwise determined by the ~~Director-General~~ Secretary, the Proponent shall prepare a draft outline of a Flora and Fauna Monitoring Report to the satisfaction of the ~~Director-General~~ Secretary. The aim of the report is to collate and synthesise all monitoring and reporting requirements contained in the documents listed in A3.~~

~~The draft outline of the Flora and Fauna Monitoring Report shall set out the proposed timeframe and duration for ongoing monitoring with reference to locations within Kings Forest, stages of development and the specific issues listed below.~~

~~The Flora and Fauna Monitoring Report shall be prepared by a suitably qualified person/s and include, but not be limited to:~~

- ~~(1) Aims, objectives and methodology for monitoring and reporting;~~

- (2) Baseline monitoring data focusing on existing populations of threatened species, including Wallum frog species and koalas;
- (3) Performance criteria against which the effectiveness of the various separate management plans required as part of this approval dealing with koalas, threatened species, buffers, weeds, vegetation and feral animals can be measured. Relevant benchmark reference vegetation communities are to be nominated from within surrounding conservation estates;
- (4) Actual performance against the above criteria;
- (5) Any required corrective actions;
- (6) Monitoring and reporting of fauna usage within the Environmental Projection zones, ecological buffers and the golf course;
- (7) Adaptive management procedures to ensure that the various separate management plans remain relevant and effective;
- (8) Monitoring and reporting of koala injury and mortality; and
- (9) Specific monitoring to measure any impact of the development on the adjacent Cudgen Nature Reserve and adaptive management procedures to ensure impacts are minimised.

The Monitoring Reports are to be provided to the Department of Planning, ~~DECCW~~ OEH, Tweed Shire Council and Industry and Investment - Fisheries.

### **B3 Further Protection of Heathland**

~~Further heathland is to be provided with long-term protection and allowed to naturally regenerate on the site.~~

~~The further heathland to be protected is to be that contained within the 50m ecological buffer in the locations depicted as 'Heath to be Naturally Regenerated' in Figure 2A titled 'Heath Regeneration and Revegetation Areas' drawn James Warren and Associates and dated 22 March 2010. The heathland in these locations is to be protected and regenerated for the full 50m width of the ecological buffer.~~

~~The details of this further protection are to be submitted along with the preferred long term protection mechanism, such as land use zoning, to the satisfaction of the Director-General prior to determination of Stage 1.~~

Heathland is to be provided with long-term protection and allowed to naturally regenerate on the site.

The heathland to be protected is to be that contained within the 50m ecological buffer in the locations depicted as 'Heath to be Naturally Regenerated' in Figure 12 of the Buffer Management Plan for Precinct 1 & 5 titled 'Revised Heath Regeneration and Revegetation Areas' drawn by James Warren and Associates and dated 20 August 2012 and Figure 9 of the Buffer Management Plan for Precincts 2-4 & 6-14 titled 'Revised Heath Regeneration and Revegetation Areas' drawn by James Warren and Associates and dated 20 August 2012. The heathland in these locations is to be protected and regenerated for the full 50m width of the ecological buffer.

### **B4 East-West Wildlife Corridors**

~~As identified in Koala Plan of Management, an east west wildlife corridor of up to 100 metres wide (with a minimum of 50 metres at any one point) must be established. The corridor should be established to provide for habitat and the movement of threatened native fauna that inhabit the site.~~

~~Prior to the determination of Stage 1, the Proponent shall also demonstrate the practicality or need for establishing a further east west 50 metre wide corridor along the southern boundary of the site.~~

~~The details of this modification, including regeneration/revegetation of the corridor, the preferred long term protection mechanism, and the practicality of a new southern east west corridor are to be submitted to the satisfaction of the Director-General prior to determination of Stage 1.~~

- 1) A fully revegetated east-west wildlife corridor generally 100 metres wide (with a minimum of 50 metres at any one point) shall be constructed between the existing central east-west wildlife corridor and the existing native vegetation separating Precinct 9 and 10 from Precinct 11, (as identified in the plan entitled "East-West Wildlife Corridor", as Attachment A to this approval) and extending to the north of the site between the existing native vegetation and ecological buffers separating Precinct 9 and 10 from Precinct 11. The corridor shall be designed to maximise fauna use (especially koalas), continuity with existing vegetation and should consider restoration works on surrounding properties. The details of this modification, including regeneration / revegetation of the corridor and the preferred long term protection mechanism are to be submitted to the satisfaction of the ~~Director-General~~ Secretary within ~~12 months of the date of the modified approval (06\_0318 Mod 2)~~ 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth *Environment Protection and Biodiversity Conservation Act* or prior to the lodgment of the first development application for the project or prior to the issue of the first construction certificate for the project, whichever occurs first.

**Note:** the words "for approval within" do not occur in the original condition or MODs 1 or 2.

## **B5 *Kings Forest Development Code***

~~As identified in the Environmental Assessment, a Development Code for the site incorporating:~~

- ~~(1) site specific objectives and development controls for exempt and complying residential and commercial development;~~
- ~~(2) site specific development controls relating to residential development comprising single dwellings and multi-dwelling housing that do not meet the complying development controls; and~~
- ~~(3) mechanisms are to be included in the Development Code for the periodic review and amendment of the Code~~

~~is to be submitted to the satisfaction of the Director-General prior to the determination of Stage 1. The site specific exempt and complying development controls will require the approval of the Minister pursuant to 75P(2)(d) of the *Environmental Planning and Assessment Act 1979*.~~

## **B5 *Dedication of Land to Tweed Shire Council***

- 1) ~~The Council Dedicated Land Plan shall be amended to identify each precinct (as shown in the Precinct Plan in the Preferred Project Report 2012) and the land to be dedicated to the Council for each precinct. The amended plan is to include a reconciliation table showing each precinct and the corresponding land to be dedicated to the Council. The Council Dedicated Land Plan shall be amended such that the extent of lands to be dedicated should include any environmental protection areas adjacent to the proposed stage extending to where such areas are intersected by any approved road alignment or adjoin environmental buffers to adjacent stages.~~
- 2) ~~The amended Council Dedicated Land Plan shall be reviewed by Council and submitted to the Director-General Secretary for approval within 12 months within 24 months of the date do the first project approval (MP08\_0194) or prior to the lodgment of the first development application for the project or prior to the issue if the first construction certificate for the project whichever occurs first.~~

~~Note: If no agreement is reached the land to be dedicated to Council in the future will not be dedicated to Council and term B7 will continue to apply.~~

### ***B5 Dedication of Land to Tweed Shire Council***

- 1) The Potential Council Land Plan shall be amended to identify each precinct (as shown in term A2, Drawing No.4 Revised Precinct Plan (Rev B)) and the associated land to be dedicated to the Council for each precinct. The amended plan is to include a reconciliation table showing each precinct and the corresponding land to be dedicated to the Council. The Potential Council Land Plan shall be amended such that the extent of lands to be dedicated should include any environmental protection areas adjacent to the proposed stage extending to where such areas are intersected by any approved road alignment or adjoin environmental buffers to adjacent stages.
- 2) The amended Potential Council Land Plan shall be reviewed by Council and submitted to the Secretary for approval prior to the issue of the first construction certificate for the project.

Note: If no agreement is reached the Potential Council Land will not be dedicated to Council and term B7 will continue to apply.

### ***B6 ~~Kings Forest Development Code~~***

~~The Kings Forest Development Code dated 2012 submitted with the proponent's PPR dated October 2012 is modified as follows:~~

#### ~~1) Part A, Schedule 1~~

- ~~a. Part 2.1.15 is amended to be consistent with Clause 4A.1 of SEPP (Exempt and Complying Development Codes) 2008~~
- ~~b. Part 2.1.72 is amended to be consistent with clause 2.70 of SEPP (Exempt and Complying Development Codes) 2008~~

#### ~~2) Part A, Schedule 2~~

- ~~a. Part 2.2.1(ac) is amended to be consistent with clause 3.36B of SEPP (Exempt and Complying Development Codes) 2008~~

#### ~~3) Part B, Section 5.4~~

- ~~a. Control 10 The addition of the words "or public footway" is not approved~~

#### ~~4) Part B, Section 5.6~~

- ~~a. Control 1(a) The deletion of Control 1(a) is not approved~~
- ~~b. Control 1(b) Delete Control 1(b) and replaced with new Control 1(b) as follows:  
(b) 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~~
- ~~c. Control 1(j) The deletion of the words "dwellings per lot" is not approved. Immediately after the words "dwellings per lot" in Control 1(j), insert the words "and bedrooms per dwelling"~~

~~The revised Development Code is to be submitted to the satisfaction of the Director General Secretary within 3 months of the date of the approval within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environment Protection and Biodiversity Conservation Act or prior to the lodgment of the first development application for the project or prior to the issue of the first construction certificate for the project whichever occurs first.~~

### **~~B7—Implementation of Environmental Management Plans~~**

- ~~1) The Proponent is responsible for the management of all land to be dedicated to Council in the future and the Offset Areas for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans for the date of the Stage 1 project approval (08\_0194), until such time that an agreement is reached with OEH and/or Tweed Shire Council regarding the dedication of that land.~~

### **B7 Implementation of Environmental Management Plans**

- 1) The proponent is responsible for the management of all Potential Council Land and the Future OEH Land for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans from the date of the commencement of the project or at another time directed by the Secretary, until such time that an agreement is reached with OEH and /or Tweed Shire Council regarding the dedication of that land.

Note: For the purpose of this condition, commencement is taken to mean any physical works including clearing vegetation, the use of heavy duty equipment for the purpose of breaking ground for bulk earthworks, or infrastructure for the proposed project.

### **~~B8—Director-General Secretary as Moderator~~**

~~Where this approval requires further approval from public authorities, the parties shall not act unreasonably in preventing an agreement from being reached. In the event that an agreement is unable to be reached within 2 months or a timeframe otherwise agreed to by the Director-General Secretary, the matter is to be referred to the Director-General Secretary for resolution. All areas of disagreement and the position of each party are to be clearly stated to facilitate a resolution.~~

### **B8 Dispute Resolution**

In the event that a dispute arises between the proponent and Council or a public authority other than the Department, in relation to a specification or requirement applicable under this consent, the matter may be referred by either party to the Secretary, or if not resolved, to the Minister, whose determination of the dispute shall be final and binding to all parties. For the purpose of this condition, 'public authority' has the same meaning as provided under Section 4 of the EP&A Act.

## PART C— ENVIRONMENTAL ASSESSMENT REQUIREMENTS FOR FUTURE APPLICATIONS

Pursuant to section 75P(2)(c) of the Act the following requirements apply with respect to future stages:

### C1 *Plan of Development*

A Plan of Development must be submitted with each future application for subdivision on the site. The Plan of Development must, at a minimum, include the following information:

- (1) Location and width of Asset Protection Zones;
- ~~(2) Level of construction required for dwellings/buildings adjacent to Asset Protection Zones in accordance with Planning for Bushfire Protection 2006 and Australian Standard 3959—1999—Construction of Building in Bushfire Prone Areas;~~  
(2)A notation on the fire affected lots that development is subject to the requirements of 'Planning for Bushfire Protection 2006' and AS3959-2009 Construction of Buildings in Bushfire Prone Areas.
- (3) Type of development permissible on each lot, eg: zero lot housing, plex housing, etc; and
- (4) ~~Fill and~~ Finished floor levels requirements on flood prone lots in accordance with the requirements of Tweed Shire Council's *Development Control Plan – Section A3 – Flood Liable Land* (or any replacement document).
- (5) All other matters specified for subdivision in the Kings Forest Development Code.

### C2 *Management Plans*

~~All future applications are to include stage-specific management plan updates providing where relevant details on timelines for implementation of recommended works including maintenance periods; measurable performance and completion criteria; and monitoring, reporting and adaptive management procedures (results to be provided according to B2)~~

~~All future applications are to include, where relevant, stage-specific management plan updates providing where relevant details on timelines for implementation of recommended works including maintenance periods and measurable performance and completion criteria. Each plan is to consider all other existing plans for the site to ensure management strategies do not conflict and that each plan can be implemented without negatively impacting on the objectives of another.~~

All future applications are to include precinct-specific management plans providing details on timelines for implementation of recommended works including both establishment and maintenance periods and measurable performance criteria. Each plan is to include an annual maintenance schedule of works following the initial establishment period and ongoing monitoring requirements. It is not necessary for new plans to be prepared if an application relies on, and does not affect, a plan that was included with an earlier application relating to the same period.

Each plan must consider all other existing plans for the site to ensure management strategies do not conflict and that each plan can be implemented without negatively impacting on the objectives of another.

Final plans are to be prepared in consultation with Council and endorsed by the ~~Director-General~~ Secretary prior to the lodgement of the relevant development application for each stage.

## Koala Plan of Management

For each stage of development an update to the KPoM shall be provided to the satisfaction of the ~~Director-General~~ Secretary, confirming that the measures identified and proposed in the KPoM to offset the impact of the development on existing and future Koala populations are adequate.

- (1) The update should take into account:
  - (a) contemporary data/literature on koala management;
  - (b) the results of the monitoring of management measures operating as part any approved stage/s, in accordance with B2;
  - (c) the role of additional koala habitat created in protecting koala numbers, and
  - (d) the provision of any additional koala management measures, specifically those relating to dogs.
- (2) The update should include, but not be limited to, the following:
  - (a) The identification of dog breeds known to present a significant threat to koalas;
  - (b) Measures to effectively mitigate the threat posed to koalas by dogs. Such measures may include prohibitions/restrictions on particular breeds; limitations on the number of dogs per property; and specifications on the way dogs are to be housed from dusk to dawn.
- (3) The update must provide stage specific detail on the following:
  - (a) revegetation and rehabilitation measures;
  - (b) measures to ensure that no identified koala food trees are removed within adjacent ecological buffers or identified core koala habitat within adjacent Environmental Protection zoned land;
  - (c) all obligations regarding the keeping of dogs, including regulatory and enforcement measures;
  - (d) specific road design, lighting and signage requirements aimed at protecting koalas and maintaining their safe passage between habitat areas. These requirements shall include fencing to road verges, fauna underpasses and like measures;
  - (e) detail of procedures to be adopted in the event that koalas are sighted within construction zones or the urban areas;
  - (f) specifications for any off-leash dog exercise areas to ensure appropriate separation from koala habitat;
  - (g) the detail of the location and construction specification of dog exclusion fencing to any adjacent Environmental Protection Zones and the timing of its completion;
  - (h) the detail, content and distribution of koala education and awareness measures aimed in particular at contractors and staff engaged in construction and at future residents of that stage; and
  - (i) a protocol for the reporting of any deaths or injuries to any koala within Kings Forest including collection and recording procedures and where necessary autopsy procedures or laboratory tests to identify the cause of death to any koala.

## **Vegetation Management Plan**

Each Vegetation Management Plan update is to provide details on:

- (1) the short, medium and long term measures to be implemented to rehabilitate degraded areas, and manage remnant vegetation and habitat within the buffers and Environmental Protection zoned land within the site.
- (2) revegetation and regeneration including establishment of appropriate canopy (including koala feed trees), sub-canopy, understorey and ground strata.
- (3) rehabilitation of creeks and drainage lines.
- (4) conserving and re-using, where appropriate, the soil seed bank where good quality native vegetation is being removed.
- (5) collection and propagation of endemic native seed for revegetation on the site.
- (6) monitoring of water quality and vegetation health within buffers and environmental protection zoned areas; and
- (7) the design, regeneration/revegetation and management of the east-west wildlife corridor/s.
- (8) Measurable performance criteria are to be based on appropriate reference sites within the adjacent Cudgen Nature Reserve.

## **Feral Animal Management Plan**

Each Feral Animal Management Plan update is to provide further details on collaboration with adjoining land owners and the incorporation of measures which include shooting and baiting.

## **Weed Management Plan**

Each Weed Management Plan update is to detail ongoing weed management measures for each relevant stage.

## **Buffer Management Plan**

Each Buffer Management Plan update is to detail bushfire protection measures, access control, signage and fencing.

## **Threatened Species Management Plan**

Each Threatened Species Management Plan update is to provide further details on specific habitat management measures to safeguard existing populations of the two threatened Wallum frog species that occur within the Environmental Protection zones, Ecological buffers and the golf course. These measures are to be determined with reference to contemporary scientific literature and current best practice.

## **Golf Course Management Plan**

The Golf Course Management Plan is to demonstrate consistency with the Koala Plan of Management and the Threatened Species Management Plan.

## **C3      *Dedication of Land to ~~DECCW~~ OEH***

~~Prior to the construction of Stage 1, or as otherwise determined by the Director-General, the Proponent must provide evidence of an agreement for the dedication by Project 28 P/L to DECCW of approximately 150 ha of land as addition to the Cudgen Nature Reserve.~~

~~Such an agreement must outline the proponent's commitment to establish boundary fences and trails satisfactory to the needs of DECCW prior to the land being added to Cudgen Nature Reserve. The proponent must ensure suitable funding for the amendment of existing reserve specific fire, pest, weed and management plans. The funding should be sufficient to ensure actions within the amended plans relevant to the new additions are able to be completed.~~

~~Prior to the release of the first subdivision certificate for the project, or as otherwise determined by the Director General Secretary (at the request of the Proponent), the Proponent must provide evidence of an agreement for the dedication by Project 28 P/L to OEH of approximately 150ha of Offset Land as addition to the Cudgen Nature Reserve.~~

~~Such an agreement must outline the proponent's commitment to establish boundary fences and trails satisfactory to the needs of OEH prior to the Offset Land being added to Cudgen Nature Reserve. The Proponent must ensure suitable funding for the amendment of existing reserve specific fire, pest, weed and management plans. The funding should be sufficient to ensure actions within the amended plans relevant to the new additions are able to be completed.~~

### **C3 Dedication of Land to OEH**

Prior to the release of the first subdivision certificate for the project, or as otherwise determined by the Secretary (at the request of the Proponent). The Proponent must provide evidence of an agreement for the dedication by Project 28 Pty Ltd to the OEH of the Future OEH Land being no less than approximately 150ha of land as addition to the Cudgen Nature Reserve.

Such an agreement must outline the proponent's commitment to establish boundary fences and trails to the satisfaction of the OEH prior to the Future OEH Land being added to Cudgen Nature Reserve. The Proponent must ensure suitable funding for the amendment of existing reserve specific fire, pest, weed and management plans. The funding should be sufficient to ensure actions within the amended plans relevant to the new additions are able to be completed.

### **C4 Affordable Housing**

The proponent shall provide, with the Environmental Assessment for the project application for Stage 1, a study to determine the need for affordable housing provision for the Kings Forest Estate. The study should address the following:

- (1) The likely future demographics of the population of the Kings Forest Estate and immediate locality by household type, income, employment and tenure;
- (2) The need for affordable housing both for rental and purchase in the Kings Forest Estate and immediate locality;
- (3) A plan showing the possible location of affordable housing on the Kings Forest site in the various precincts; and,
- (4) Investigation of mechanisms for the provision of affordable housing, including any role for community housing providers or the potential use of Voluntary Planning Agreements

The proponent is to consult with Tweed Shire Council and Housing NSW Centre for Affordable Housing in the preparation of the study.

### **C5 Alignment- Kings Forest Parkway**

The alignment of the Kings Forest Parkway through the site must be designed so that it is a continuous or 'through' alignment to enforce its priority route status as a major collector/distributor road.

### **C6 Traffic Assessment**

- 1) In order to ensure that necessary works to the external road network are implemented in a timely manner and to monitor and assess incremental impacts on the network, each future development application for subdivision must be accompanied by a detailed traffic assessment that addresses impacts on the broader network prepared by suitably qualified person in accordance with the RTA's *Guide to Traffic Generating Developments*.

- 2) Any future application that requires further upgrades (eg: signalisation) of the Tweed Coast Road and Kings Forest Parkway intersection must include a further traffic assessment to determine the most appropriate traffic control device for this intersection. This analysis should be in accordance with the *RMS Traffic Modelling Guidelines* (February 2013) and should include but not be limited to;
- a) a comparison of pedestrian and vehicle numbers against the warrants for signal installation.
  - b) the feasibility of alternative traffic control treatments, i.e. roundabouts.
  - c) the number and type of road crashes at the proposed signal location.
  - d) traffic counts and vehicle movements at the proposed signal location.
  - e) the local road geometry including grades, sight distances, road width and proximity to other intersections.
  - f) traffic modelling to assess site configuration, phasing and cycle times. This would incorporate other existing signals at nearby locations.
  - g) the analysis should also include future land use patterns, plus current and future road network usage in and around the site.

### **C7 Road Traffic Noise Impact Assessment**

In order to determine appropriate noise attenuation requirements adjacent to the Kings Forest Parkway, a road traffic noise impact assessment must be undertaken in accordance with RTA guidelines as part of each development application. Details of noise attenuation measures (buffers, mounds, acoustic walls, construction standards) are to be provided as part of each development application.

### **C8 Traffic and Wildlife Protection Measures**

All future development applications are to demonstrate that:

- (1) Provision has been made to maintain the safe passage of wildlife between habitat areas through specific road design, lighting and signage requirements and, where considered appropriate, fencing to road verges, fauna underpasses and like measures; and
- (2) Road crossings of waterways maintain existing fish passage.

### **C9 Restrictions on Cats**

The future development applications must demonstrate that the keeping of cats within the Kings Forest site shall be totally prohibited and that all residential lots are to be encumbered to this effect with a Section 88B instrument under the *NSW Conveyancing Act 1919*.

### **C10 Acid Sulfate Soils and Groundwater Assessment**

~~In order to ensure the protection of groundwater quality and the water quality of surrounding surface waters, a detailed acid sulphate soils (ASS) assessment and ASS Management Plan (ASSMP) addressing groundwater and acid sulphate soils prepared by a suitably qualified person must be submitted with the each development application for subdivision. The assessment must be carried out in accordance with the ASSMAC Guidelines (1988) and must include the following, as a minimum:~~

In order to ensure the protection of groundwater quality and the water quality of surrounding surface waters, a detailed acid sulphate soils (ASS) assessment and, if required, ASS Management Plan (ASSMP) addressing groundwater and acid sulphate soils prepared by a suitably qualified person must be submitted prior to issue of construction certificates for future precinct earthworks. The assessment must be carried out in accordance with the ASSMAC Guidelines (1988) and must include the following, as a minimum:

- (1) A plan as described above, showing the locations of all monitoring and test points (boreholes, test pits, wells/groundwater sampling, soils sampling, surface water sampling, monosulphides sampling etc);
- (2) Plots of water level and quality with time;
- (3) Spatial and depth distribution of ASS soils, corrected to include TAA plus oxidisable sulphur, and using the ASSMAC recommended action level (>18 mols H+/t) for the site;
- (4) Typical treatment levels/distribution of AASS and PASS soils on site (where investigated), to current/correct standards; and,
- (5) A detailed ASSMP with actions for determining ASS conditions ahead of excavation, handling of groundwater levels and quality, detailed management procedures for surface waters and flood routing, interaction (short and long term) of the groundwater with surface water in order to prevent the formation of monosulfides, materials evaluation and handling, materials balance, stockpile treatment, validation testing, monitoring systems with trigger levels, contingency actions, protection for structural elements, evaluation of off-site impacts etc.

### **C11 Stormwater Management and Water Quality Monitoring**

All future development applications for subdivision are to submit a detailed stormwater management plan prepared by a suitably qualified person. The Stormwater Management Plan must address and outline measures based on Water Sensitive Urban Design Principles which addresses impacts on the surrounding environment, drainage and water quality controls for the catchment, and erosion and sediment controls at construction and operational stages.

Each plan is to include a detailed design layout plan for the preferred stormwater treatment train showing location, size and key functional elements of each part of the system must be submitted with each development application for subdivision. MUSIC modelling must be undertaken to demonstrate appropriate water quality objectives are being achieved.

All future applications for each stage of development are to demonstrate, through the provision of monitoring and adaptive management plans and commitments, that any proposed surface water/stormwater pollution reduction devices will be monitored to determine their pollutant removal efficiencies and the need for further treatment of drainage to ensure the preservation of water quality in Cudgen Creek and Blacks Creek.

### **C12 Constructed Lakes/Wetlands**

In order to ensure the protection of groundwater quality and the surface water quality, a detailed water resource management plan prepared by a suitably qualified person must be submitted with any development application that includes construction of lakes or wetlands. The plan is to address the management of groundwater, acid sulphate soils and water quality for any constructed lake or wetland. The management plan is to be submitted to the satisfaction of the ~~Director-General~~ [Secretary](#) following consultation with the NSW Office of Water and the Council.

### **C13 Geotechnical Assessments**

In order to ensure the stability of development lots, a detailed geotechnical assessment prepared by a suitably qualified person must be submitted with each future development application for subdivision, [where relevant](#). The assessments must, at a minimum, include the following:

- (1) A geotechnical map of the site clearly showing ground surface contours, geotechnical engineering soil types and geotechnical hazards. The delineation of hazards should include hazard locations and possible hazard impact areas. That map should be occupied by an explanatory text describing the nature and delineation of soil types and hazard types. The map and text should be prepared by a suitably experienced geotechnical practitioner.
- (2) A synthesis site plan clearly showing ground surface contours and the locations of all test pits, boreholes and monitoring wells drilled on the site to date.

Any hillside construction must be in accordance with *Some Guidelines for Hillside Construction and Practice*, Appendix G of *Landside Risk Management* by Australian Geomechanics 2002.

#### **C14 Bushfire Assessment**

In order to ensure the protection of property and assets, a detailed bushfire assessment and management plan prepared by a suitably qualified person must be submitted with each future development application for subdivision. The assessment must, at a minimum, demonstrate consistency with the requirements of *Planning for Bushfire Protection 2006*. All asset protection zones must be clearly specified on the Plan of Development and all affected lots are to be encumbered with a Section 88B instrument under the *NSW Conveyancing Act 1919*.

#### **C15 Open Space**

- 1) All future applications for each stage of development are to demonstrate the provision of an adequate area of active and passive open space areas. A detailed Open Space Network Plan is to be provided demonstrating open space provision in accordance with Council's minimum requirements.
- 2) Unless otherwise approved by the ~~Director-General~~ Secretary, the first 4ha of active open space (sports fields) are to be embellished and dedicated to council with the release of the 750<sup>th</sup> lot or release of a subdivision certificate for Precinct 4, whichever occurs first. The provision of sports fields and sport field embellishment must be to the satisfaction of council. Subsequent sports field embellishment and dedication is to occur at the rate of 4ha per 750 lots constructed (that is, prior to the construction of the 1750<sup>th</sup> lot, 2750<sup>th</sup> lot, and 3,750<sup>th</sup> lot). No further subdivision certificates will be released beyond these thresholds until each required sports field area is embellished and dedicated in accordance with this staging schedule.

In this clause a 'lot' means a residential lot identified in a registered plan of subdivision, and, for the avoidance of doubt, does not include a lot that is created for one or more of the following purposes:

- (a) to be dedicated or otherwise transferred to a public authority; or
  - (b) for any public utility undertaking (within the meaning of the Standard Instrument (Local Environmental Plans) Order 2006 as at the date of approval; or
  - (c) to be association property within the meaning of the *Community Land Development Act, 1989*; or
  - (d) for open space, recreation, environmental conservation, drainage or riparian land management; or
  - (e) a residue or master lot, which is to be further subdivided (by or on behalf of the proponent).
- 3) Prior to embellishment and dedication of the first 4ha of the sports field, a master plan for development of the entire 18ha sports field area must be prepared to the satisfaction of council. The master plan must address all boundary constraints to the design of the facility, including erection of field lighting, and proximity to drainage areas and fill batters, so that appropriate buffers can be provided around marked playing surfaces.

- 4) Embellishment and dedication of the first 4ha of the sports field facility must be accompanied by the provision of:
  - a. A sealed public access road (rural cross section with swale drainage as a minimum standard)
  - b. Water and sewerage
  - c. Electricity and telecommunications
- 5) Prior to the approval of any development after Stage 1, for residential purposes an Open Space Concept Plan that addresses the hierarchy of casual open space areas (parks) to be provided throughout the project is to be prepared to the satisfaction of council. This must include consideration of the location of and facilities required for major central or district parks.
- 6) Note: This term of approval over-rides Statement of Commitment No. 19.

### **C16    *Provision of Land for Emergency Services***

Each future development application must investigate and report on the accommodation of appropriate facilities for the NSW Ambulance Service, NSW Police and the NSW Fire Service.

### **C17    *Further Threatened Flora Surveys***

As per the Revised Threatened Species Management Plan further surveys are required for: Square Stemmed Spike Rush with development applications relating to precincts 13, 14 and 16.

Surveys are to be undertaken during the appropriate season. Procedures for the protection and management of any newly identified occurrences of this species are to be in accordance with the Recovery Plan for this species and are to be detailed within the Vegetation Management Plan.

### **C18    *Landscaping***

Prior to the transfer of any land to Council, Council is to be satisfied that landscaping is in accordance with Council's public open space landscape guidelines and standards.

### **C19    *Cultural Heritage Management Plan***

All future applications for each stage of development are to demonstrate the implementation of the recommendations of the Cultural Heritage Management Plan, including the requirement for site specific management strategies for each of the identified sites of cultural heritage significance as they relate to the area of the development application

### **C20    *Development within Ecological and Agricultural buffers***

All future development applications proposing development within either the ecological or the agricultural buffer must demonstrate that, as relevant, clauses 7 or 8 of Schedule 3 of the *State Environmental Planning Policy (Major Development) 2005* have been adequately addressed.

### **C21    *Bus Network***

~~All future applications for each stage of development are to ensure the adequate provision of public transport through the provision of a bus network implementation plan.~~

All future applications for each stage of development for residential subdivision are to ensure the adequate provision has been made for public transport through the provision of a bus network implementation plan.

## **C22     Groundwater**

~~All future applications for each stage of development are to demonstrate that where the use of groundwater is proposed or where the watertable is proposed to be intercepted impacts on groundwater have been assessed. A Site Water Management Plan and a Groundwater Management and Monitoring Plan are to be submitted to the satisfaction of the Council following consultation with the NSW Office of Water.~~

~~Baseline groundwater monitoring, conducted for 12 months, prior to any approval for future applications will be required.~~

For all future applications where the use of groundwater or the interception of the groundwater table is proposed, the proponent, after consulting with the NSW Office of Water, is to prepare detailed Site Water and Groundwater Management and Monitoring Plans, supported by baseline groundwater monitoring conducted for an appropriate period. The plans are to be submitted for the approval of the relevant consent authority prior to the issue of a construction certificate.

## **C23     Housing Densities**

All future applications for each stage of development are to provide a plan which:

- (1) Details the mix of densities in each precinct;
- (2) Demonstrates adoption of the neighbourhood planning principles in the Far North Coast Regional Strategy;
- (3) Details the objectives for the location of housing of various densities;
- (4) Details the proposed number and size of dwellings in each stage and precinct;
- (5) Details sites for seniors housing and support facilities;
- (6) Demonstrates the implementation of the levels of accommodation provided for in the approved concept plan;
- (7) Details sites for higher density development; and
- (8) Details discussions with Tweed Shire Council.

## **C24     Flooding**

All future applications for each stage of development are to incorporate any re-calibrations of the Tweed Shire Council flood model.

A preliminary development landform for the entire Kings Forest site is to be provided with the Environmental Assessment for Stage 1 to allow comprehensive flood modelling to be carried out, but not in such a way as to preclude necessary modifications to land forms in subsequent stages of development.

## **C25     Overall Water Management Plan**

All future applications for each stage of development are to provide an overall water management plan, integrating any discrete water, stormwater, groundwater and Acid Sulfate Soil management plans.

## **C26     Implementation of Part B of the Kings Forest Development Code**

All future project/development applications for residential subdivision or for the construction of dwellings or commercial premises must demonstrate consistency with Part B of the Kings Forest Development Code.

## **C27     *Blacks Creek Rehabilitation Plan***

Prior to the making of the first development application for subdivision of the project, subsequent to Stage 1 (MP08\_0194), or such other application as agreed by the ~~Director-General Secretary~~ (at the request of the Proponent) the Proponent must submit to the ~~Director-General Secretary~~ a Rehabilitation Plan for Blacks Creek. The plan is to be prepared in consultation with and to the satisfaction of the Department of Primary Industries – Fisheries and the Office of Environment and Heritage and approved by the ~~Director-General Secretary~~.

Note: This term of approval over-rides Statement of Commitment No. 23.

## **C28     *East West Wildlife Corridors***

The development application for subdivision in Precinct 6, 7, 9 or 10 (whichever occurs first) must include a detailed Management Plan to include the precise location, restoration methodology, schedule and timing of works to be undertaken, maintenance and monitoring schedule, completion criteria and a mechanism for long-term protection of the new southern east-west corridor as required by term B4 of this approval.

## **~~C29     *Dedication of Land to Tweed Shire Council*~~**

~~All future development applications for subdivision shall provide details of the land to be dedicated to Council in the future in accordance with the Council Dedicated Land Plan as required by Term B5 of this approval.~~

## **C29     *Dedication of Land to Tweed Shire Council***

All future development applications for subdivision shall provide details of the Potential Council Land as is relevant to the application concerned in accordance with condition 85 of this approval.

## **~~C30     *Affordable Housing*~~**

~~The development application for subdivision of Precinct 7 shall provide details of how affordable housing will be provided within this precinct, in accordance with the recommendations of the Kings Forest Affordable Housing Study, Prepared for Project 28 Pty Ltd, dated December 2010 and the Preferred Project Report dated October 2012.~~

~~Note: The provision of affordable housing may be subject to the successful application for National Rental Affordable Housing Scheme (NRAS) funding.~~

## **C30     *Affordable Housing***

The development application for subdivision of Precinct 7 shall provide details of how affordable housing will be provided within this precinct, in accordance with the recommendations of the Kings Forest Affordable Housing Study, Prepared for Project 28 Pty Ltd, dated December 2010 and the Preferred Project Report dated October 2012.



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**APPENDIX 2      Consolidated Project Approval MP08\_0194 (as modified), Incorporating  
Modifications 1, 2, 3, 4, 6 and 7**

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**DAC Planning Pty Ltd**

A.C.N. 093 157 165

Town Planning & Development Consultants

# Project Approval

## Section 75J of the *Environmental Planning & Assessment Act 1979*

The Planning Assessment Commission of New South Wales (the Commission), under the instrument of delegation dated 20 May 2011, having considered all relevant matters prescribed under Section 75J(2) of the *Environmental Planning and Assessment Act 1979*, including those relevant matters prescribed by Section 75I(2) as contained in the Director General's Environmental Assessment report determine to grant approval to the project application (08\_0194) described in Schedule 1 subject to the conditions of approval in Schedule 2 and the Statement of Commitments in Schedule 3, pursuant to Section 75J(1) of the *Environmental Planning and Assessment Act 1979*.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

**Member of the Commission**

Sydney

**Member of the Commission**

11 August 2013

### SCHEDULE 1

**Application No.:**

08\_0194

**Proponent:**

Project 28 Pty Ltd

**Approval Authority:**

Minister for Planning

**Land:**

Kings Forest Estate  
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 13727;  
Lot 38B DP 13727;  
Lot 1 DP 129737;  
Lot 1 DP 781633;  
Lot 7 DP 875447;~~and,~~  
Lot 37A DP 13727,  
**Lot 2 DP 1159231 (closed road)**  
**Lot 1 DP 1178256 (closed road); and,**  
**Lot 1, 2 & 3 DP 1157616 (closed roads).**

Modification 1, approved on 16 May 2014

Modification 2, approved on 20 November 2014

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Modification 4, approved 8 May 2019

Modification 6, approved on 21 December 2017 – Consolidated Approval produced by DAC Planning Pty Ltd on 18 January 2017.

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Modification 8, approved on 26 November 2019

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**Project:**

Kings Forest Residential Subdivision Stage 1 Bulk Earthworks, Roadworks and Subdivision of Precinct 5, including:

- subdivision of the site into ten development lots in 4 stages;
  - bulk earthworks across the site;
  - roadworks 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 precincts; and
    - construction of two roads providing access to the southern site precincts;
  - Plan of Development for Precinct 5;
  - development of ~~988~~ 998 sqm of floorspace for a ~~rural supplies building~~ service station and food and drink premises 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:
    - 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)
- 

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## DEFINITIONS

|                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Advisory Notes</b>                  | means advisory information relating to the approved project but do not form a part of this approval.                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>BCA</b>                             | means Building Code of Australia                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>CEMP</b>                            | means Construction Environmental Management Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Certifying Authority (CA)</b>       | means a person who is authorised by or under section 109D of the <i>Environmental Planning and Assessment Act 1979</i> to issue certificates.                                                                                                                                                                                                                                                                                                                                                         |
| <b>Construction certificate</b>        | means a Construction certificate for bulk earthworks or civil works unless specified otherwise <b>and does not include a construction certificate pursuant to condition A18.</b>                                                                                                                                                                                                                                                                                                                      |
| <b>Council</b>                         | means Tweed Shire Council.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Council Dedicated Land Plan</b>     | <del>means the 'Plan of Proposed Areas to be Dedicated to Council with Work Areas' prepared by Landsurv Pty Ltd dated 2 October 2012, Revision D</del>                                                                                                                                                                                                                                                                                                                                                |
| <b>Crown Lands</b>                     | means the Crown Lands Division as part of the Department of Primary Industries or its successors.                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Department</b>                      | means the Department of Planning & Infrastructure or its successors.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Developer</b>                       | means anyone acting on behalf of the Proponent.                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <del><b>Director General</b></del>     | <del>means the Director General of the Department or his/her nominee.</del>                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Environmental Assessment</b>        | means the Environmental Assessment prepared by JBA Planning and dated November 2011, including all Appendices                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Environmental Management Plan</b>   | means the environmental management plans in Appendix 10 of the Preferred Project Report 2012                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>EP&amp;A Act</b>                    | means the <i>Environmental Planning &amp; Assessment Act 1979</i>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <del><b>Establishment Period</b></del> | <del>means the period commencing with the implementation of the relevant approved environmental management plan(s) and ending when the works specified in that plan meet the establishment phase performance criteria (as defined by the relevant approved environmental management plan) to the satisfaction of the approval authority. The establishment period represents time necessary to carry out initial environmental repair, restoration and monitoring prior to ongoing maintenance.</del> |
| <b>Establishment Period</b>            | means the period commencing with the implementation of the relevant approved environmental management plan(s) and ending when the works specified in that plan meet the establishment period performance criteria (as defined by the relevant approved environmental management plan) to the satisfaction of the Secretary. The establishment period represents the time necessary to carry out initial environmental repair, restoration and monitoring prior to ongoing maintenance.                |
| <b>Food and Drink Premises</b>         | means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes a restaurant or cafe, take away food and drink premises.                                                                                                                                                                                                                                                                                   |
| <b>Future OEH Land</b>                 | means the land identified in the 'Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development' prepared by Landsurv Pty Ltd dated 23 August 2012, Revision C.                                                                                                                                                                                                                                                                                                                             |

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|                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Investigatory and Monitoring Work</b>                 | means the works described in the 'Comments' column of the Table titled "Table of Preliminary or Investigatory Work Proposed to be Carried out before the Issue of a Construction Certificate for Substantive Subdivision Work" that is contained in Attachment 1 of this Project Approval and depicted in the plans prepared by JWA Pty Ltd dated 9 July 2018 and titled 'Select Investigatory Monitoring Work' that is contained in Attachment 2 of this Project Approval. |
| <b>Kings Forest Development Code</b>                     | means the Kings Forest Development Code approved by the Director-General of the Department of Planning on 12 December 2010 as amended by condition B6                                                                                                                                                                                                                                                                                                                       |
| <del>Land to be Dedicated to Council in the Future</del> | <del>means the land to be dedicated to Council as identified on the Council Dedicated Land Plan</del>                                                                                                                                                                                                                                                                                                                                                                       |
| <del>Maintenance Period</del>                            | <del>means the period commencing immediately after the end of the establishment period during which environmental management and monitoring works specified in the relevant approved environmental management plan(s) are to be carried out in accordance with the maintenance period phase performance criteria (as defined by the relevant approved environmental management plan) to the satisfaction of the Director-General.</del>                                     |
| <b>Maintenance Period</b>                                | means the period commencing immediately after the end of the establishment period during which environmental management and monitoring works specified in the relevant approved environmental management plan(s) are to be carried out in accordance with the maintenance period performance criteria (as defined by the relevant approved environmental management plan) to the satisfaction of the Secretary.                                                             |
| <b>Minister</b>                                          | means the Minister for Planning and Infrastructure                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Occupation Certificate</b>                            | means a certificate referred to in section 109C (1) (d) of the EP&A Act                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>OEH</b>                                               | means the Office of Environment & Heritage or its successors.                                                                                                                                                                                                                                                                                                                                                                                                               |
| <del>Offset Area</del>                                   | <del>means the land proposed to be dedicated to the Office of Environment and Heritage as identified on the 'Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development' prepared by Landsurv Pty Ltd dated 23 August 2012, Revision C</del>                                                                                                                                                                                                                   |
| <b>PCA</b>                                               | means Principal Certifying Authority, as defined in the <i>Environmental Planning &amp; Assessment Act 1979</i>                                                                                                                                                                                                                                                                                                                                                             |
| <b>Potential Council Land Plan</b>                       | means the plan 'Potential Council Land Plan with Work Areas', prepared by Landsurv dated 6 December 2013, Revision E, as amended in accordance with Condition B5.                                                                                                                                                                                                                                                                                                           |
| <b>Potential Council Land</b>                            | means the land identified as 'potential Council land' on the Potential Council Land Plan.                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Preferred Project Report 2012</b>                     | means the Proponent's Preferred Project Report lodged for project application MP08_0194 and dated October 2012                                                                                                                                                                                                                                                                                                                                                              |
| <b>Project</b>                                           | means the project as described in Condition A1                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Proponent</b>                                         | means Project 28 Pty Ltd or any party acting upon this approval.                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Regulation</b>                                        | means the <i>Environmental Planning and Assessment Regulation 2000</i> .                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>RFS</b>                                               | means the Rural Fire Service or its successors                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|                                |                                                                                                                                                                                                                             |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Secretary</b>               | means the Secretary of the Department of Planning and Environment or his/her nominee.                                                                                                                                       |
| <b>Service Station</b>         | means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, for the cleaning of motor vehicles and the ancillary retail selling or hiring of general merchandise or services or both. |
| <b>Site</b>                    | means the land identified in Schedule 1.                                                                                                                                                                                    |
| <b>Subdivision Certificate</b> | means a certificate referred to in section 109C (1) (d) of the EP&A Act                                                                                                                                                     |
| <b>UPSS</b>                    | means Underground Petroleum Storage Systems                                                                                                                                                                                 |
| <b>UPSS Regulation 2014</b>    | Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014                                                                                                                            |

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## SCHEDULE 2

### ADMINISTRATIVE CONDITIONS

#### Project Description

A1. Project approval is granted only to:

##### PART ONE – SUBDIVISION OF ENTIRE SITE

- 1) Subdivision of the entire Kings Forest Estate site into ten (10) allotments (proposed Lots 1 – 10);

##### PART TWO – BULK EARTHWORKS AND CIVIL WORKS

- ~~2) Staged bulk earthworks across the site to lower site levels in Precincts 2, 4, 5, 12, 13 and 14 in order to provide fill to create development pads for the residential areas in Precincts 1 and 6 to 11 and contour the future golf course in Precincts 12, 13 and 14~~
- 2) Staged bulk earthworks across the site in order to create development pads for development areas in Precincts 1, 2 and 4 to 14 in accordance with the plans referred to in condition A3.
- 3) Road forming works, comprising:
  - a) Construction of the entrance road into the site and associated intersection works on Tweed Coast Road
  - b) Alignment and construction of Kings Forest Parkway from Tweed Coast Road via Precincts 4 and 5 through to the western precincts
  - c) Alignment and part construction of two roads through SEPP14 wetland areas to access the southern development precincts and golf course
- 4) Construction of subdivision and infrastructure works along the Kings Forest Parkway and within Precincts 1 and 5

##### PART THREE – CONSTRUCTION OF PRECINCT 1

- 5) Construction of 2,036 998 sqm of floorspace for a ~~rural supplies building~~ service station/food and drink premises, including carparking and landscaping.

##### PART FOUR – SUBDIVISION OF PRECINCT 5

- 6) Subdivision of Lot 2 (Precinct 5) into 376 Torrens title residential development lot, three public reserve lots, eight drainage reserve and Asset Protection Zone lots, one environmental open space lot and one lot for locating the sewer pump station, in accordance with the Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Staging Plan (Drawing No.34860-2\_PROP, dated 5 September 2012, Revision D, Sheet 1 of 1)

#### Kings Forest Concept Plan

A2. The project shall be generally undertaken within the terms of the concept plan approval for the Kings Forest Estate (Major Project 06\_0318) approved by the Minister on 22 December 2010 and as modified on the same date as this project approval.

#### Terms of Approval

- A3. The Proponent shall carry out the project generally in accordance with the:
- (a) Environmental Assessment prepared by JBA Planning dated November 2011
  - (b) Preferred Project Report prepared by Darryl Anderson Consulting dated October 2012, including Appendices 1 to 30
  - (c) Revised Statement of Commitments at Schedule 3 of this approval
  - (d) The 'S75W Modification No. 3' report prepared by DAC Planning Pty Ltd, dated September 2015
  - (e) Bitzios – Traffic Impact Assessment, 5 October 2016
  - (f) DAC Planning, Position Paper, August 2016

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- (g) DAC Planning, Position Paper Acoustic & Light Spill Impacts, October 2016
- (h) Gilbert & Sutherland, Site Based Management Plan, 9 December 2016
- (i) Gilbert & Sutherland, Letter, 7 December 2016
- (j) Gilbert & Sutherland, Groundwater Conditions, October 2016
- (k) DAC Planning, Letter re Condition 27, 13 October 2016 and Tweed Shire Council reply dated 11 November 2016
- (l) MDA Consulting, Position Paper re Lighting, 13 October 2016
- (m) Gilbert & Sutherland, Position Paper Conceptual Stormwater Assessment, November 2016
- (n) CRG Acoustics, Position Paper Acoustical Issues, 5 October 2016
- (o) Mortons Urban Solutions, Letter, 29 November 2016
- (p) Place Design Group, Landscape Statement of Intent, Issue C, October 2016
- (q) Biztios, Letter, 28 November 2016
- (r) Letter from DAC Planning Pty Ltd to Department of Planning and Environment dated 27 January 2017
- (s) Conditions of this approval, and
- (t) The following drawings:

| Civil Drawings Prepared by Mortons Urban Solutions – Precinct 1 and 2     |          |                                                       |          |
|---------------------------------------------------------------------------|----------|-------------------------------------------------------|----------|
| Drawing No.                                                               | Revision | Name of Plan                                          | Date     |
| 12301-SK-050                                                              | A        | Kings Forest Precincts 1-5 Earthworks Phasing Diagram | 29.01.13 |
| 12301-EMAW-007                                                            | C        | Road Hierarchy & Staging Plan                         | 30.08.12 |
| 12301-EMAW-010                                                            | B        | Sediment & Erosion Concept Plan                       | 30.08.12 |
| 12301-EMAW-030                                                            | C        | Bulk Earthworks Cutfill Plan Sheet 01                 | 27.08.12 |
| 12301-EMAW-031                                                            | C        | Bulk Earthworks Cutfill Plan Sheet 02                 | 27.08.12 |
| 12301-ALL-040                                                             | F        | Bulk Earthworks Cut Fill Depths                       | 16.10.12 |
| 12301-ALL-041                                                             | B        | Bulk Earthworks Sequencing Diagram                    | 16.10.12 |
| Civil Drawings Prepared by Mortons Urban Solutions – Precincts 3, 4 and 5 |          |                                                       |          |
| Drawing No.                                                               | Revision | Name of Plan                                          | Date     |
| 12301-05-007                                                              | B        | Road Hierarchy and Staging Plan                       | 27.08.12 |
| 12301-05-008                                                              | B        | Indicative Staging Plan                               | 27.08.12 |
| 12301-05-010                                                              | B        | Sediment and Erosion Concept Plan                     | 27.08.12 |
| 12301-ALL-040                                                             | F        | Bulk Earthworks Cut Fill Depths                       | 16.10.12 |
| 12301-ALL-041                                                             | B        | Bulk Earthworks Sequencing Diagram                    | 16.10.12 |
| Civil Drawings Prepared by Mortons Urban Solutions – Precincts 6-11       |          |                                                       |          |
| Drawing No.                                                               | Revision | Name of Plan                                          | Date     |
| 12301-EWB-010                                                             | B        | Sediment & Erosion Concept Plan                       | 27.08.12 |
| 12301-ALL-040                                                             | F        | Bulk Earthworks Cut Fill Depths                       | 16.10.12 |
| 12301-ALL-041                                                             | B        | Bulk Earthworks Sequencing Diagram                    | 16.10.12 |

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| <b>Civil Drawings Prepared by Mortons Urban Solutions – Golf Course Precincts 12-14</b> |                 |                                                                                                                |             |
|-----------------------------------------------------------------------------------------|-----------------|----------------------------------------------------------------------------------------------------------------|-------------|
| <b>Drawing No.</b>                                                                      | <b>Revision</b> | <b>Name of Plan</b>                                                                                            | <b>Date</b> |
| 12301-GC-010                                                                            | B               | Sediment & Erosion Concept Plan                                                                                | 27.08.12    |
| 12301-ALL-040                                                                           | F               | Bulk Earthworks Cut Fill Depths                                                                                | 16.10.12    |
| 12301-ALL-041                                                                           | B               | Bulk Earthworks Sequencing Diagram                                                                             | 16.10.12    |
| <b>Subdivision Plans Prepared by Landsurv Pty Ltd</b>                                   |                 |                                                                                                                |             |
| <b>Drawing No.</b>                                                                      | <b>Revision</b> | <b>Name of Plan</b>                                                                                            | <b>Date</b> |
| Sheet 1 of 5                                                                            | E               | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application                   | 05.02.2013  |
| Sheet 2 of 5                                                                            | E               | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application                   | 05.02.2013  |
| Sheet 3 of 5                                                                            | E               | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application                   | 05.02.2013  |
| Sheet 4 of 5                                                                            | E               | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application                   | 05.02.2013  |
| Sheet 5 of 5                                                                            | E               | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application                   | 05.02.2013  |
| Sheet 1 of 1                                                                            | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Staging Plan Kings Forest For Stage 1 Project Application | 05.09.2012  |
| Sheet 1 of 11                                                                           | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application              | 05.09.2012  |
| Sheet 2 of 11                                                                           | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application              | 05.09.2012  |
| Sheet 3 of 11                                                                           | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application              | 05.09.2012  |
| Sheet 4 of 11                                                                           | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application              | 05.09.2012  |
| Sheet 5 of 11                                                                           | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application              | 05.09.2012  |
| Sheet 6 of 11                                                                           | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application              | 05.09.2012  |

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|                                                                      |                 |                                                                                                   |                 |
|----------------------------------------------------------------------|-----------------|---------------------------------------------------------------------------------------------------|-----------------|
| Sheet 7 of 11                                                        | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application | 05.09.2012      |
| Sheet 8 of 11                                                        | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application | 05.09.2012      |
| Sheet 9 of 11                                                        | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application | 05.09.2012      |
| Sheet 10 of 11                                                       | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application | 05.09.2012      |
| Sheet 11 of 11                                                       | D               | Plan of Proposed Subdivision of Lot 2 (Precinct 5) – Kings Forest For Stage 1 Project Application | 05.09.2012      |
| 113691-LD-1f                                                         | F               | Indicative Subdivision Plan Precinct 5                                                            | 12 October 2012 |
| 113691-STP-10a                                                       | A               | Precinct 5 Indicative Staging Plan                                                                | 12 October 2012 |
| Sheet 1 of 1                                                         | C               | Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development                           | 23.08.12        |
| <b>Architectural Plans Prepared by The Buchan Group – Precinct 1</b> |                 |                                                                                                   |                 |
| <b>Drawing No.</b>                                                   | <b>Revision</b> | <b>Name of Plan</b>                                                                               | <b>Date</b>     |
| SK001                                                                | F               | Site Plan & Location Plan                                                                         | 21.08.2012      |
| SK104                                                                | G               | Elevation                                                                                         | 21.08.2012      |
| SK106                                                                | B               | Elevation                                                                                         | 21.08.2012      |
| <b>Architectural Plans Prepared by Push – Precinct 1</b>             |                 |                                                                                                   |                 |
| <b>Drawing No.</b>                                                   | <b>Revision</b> | <b>Name of Plan</b>                                                                               | <b>Date</b>     |
| DA0000                                                               | G               | Locality Map                                                                                      | Dec 2016        |
| DA1000                                                               | P3              | Proposed Site Plan                                                                                | Dec 2016        |
| DA1001                                                               | F               | Proposed Ground Floor Plan                                                                        | Sep 2016        |
| DA1003                                                               | C               | Proposed Roof Plan                                                                                | Sep 2016        |
| DA2001                                                               | E               | Elevations                                                                                        | Sep 2016        |
| DA2002                                                               | E               | Elevations                                                                                        | Sep 2015        |
| DA3001                                                               | C               | Sections                                                                                          | Sep 2016        |
| DA5000                                                               | F               | Proposed Landscape Plan                                                                           | Dec 2016        |
| DA5001                                                               | C               | Proposed Landscape Sections                                                                       | Dec 2016        |
| <b>Engineering Plans Prepared by Mortons Urban Solutions</b>         |                 |                                                                                                   |                 |
| <b>Drawing No.</b>                                                   | <b>Revision</b> | <b>Name of Plan</b>                                                                               | <b>Date</b>     |
| 12301-SK-60A                                                         | C               | Kings Forest Precinct 1 Grading Plan                                                              | 25.11.2016      |

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|              |   |                                                                                             |            |
|--------------|---|---------------------------------------------------------------------------------------------|------------|
| 12301-SK-061 | A | Kings Forest Sections and Indicative Drainage Profile                                       | 16.12.2014 |
| 12301-SK-111 | B | Indicative Plan and Section Tweed Coast Road and Kings Forest Parkway Ultimate Intersection | 28.11.2016 |

#### Inconsistencies Between Documents

A4.

- 1) In the event of any inconsistency between the documentation referred to in condition A3, the most recent document shall prevail to the extent of the inconsistency.
- 2) In the event of any inconsistency between the conditions of this approval and the documents referred to in condition A3, including the Proponent's Statement of Commitments, the conditions of this approval shall prevail.
- 3) In the event of any inconsistency between this project approval and the concept plan approval, or any other development consent over the land, the concept plan approval shall prevail to the extent of the inconsistency

#### Subdivision Manual

A5.

- 1) All works approved as part of this project are to be carried out generally in accordance with Council's *Development Control Plan Part A5 - Subdivision Manual* (as in force at the date of this approval) and council's relevant Development Design and Construction Specifications (as in force at the date of this approval) unless otherwise altered by the provisions of the Kings Forest Development Code.

Note: minor variations to the drawings approved in this approval may be required and approved in applications for construction certificate at the discretion of the certifying authority.

- 2) Notwithstanding condition A5(1) above, where there is any inconsistency with the Subdivision Manual, the conditions of this approval, the Kings Forest Concept Plan (06\_0316) and Kings Forest Development Code, prevail to the extent of the inconsistency.

#### Construction Staging (Bulk Earthworks)

A6.

- 1) Bulk earthworks are to be undertaken in stages as generally described below, as per Morton's plan 12301-SK-050 Revision A, dated 29/01/13 and the Bulk Earthworks Sequencing Diagram 12301-ALL-041 Revision B, dated 16 October 2012:
  - 1) Stage 1(a) Precinct 5 (Phase 1)
  - 2) Stage 1(b) Precinct 5 (Phase 2)
  - 3) Stage 1(c) Precinct 1, Precinct 2, Kings Forest Parkway and part Precinct 4 (Phase 3)
  - 4) Stage 1(d) Precinct 5 (Phase 4)
  - 5) Stage 1(e) Precinct 4 (Phase 5)
  - 6) Stage 1(f) Precinct 4 (Phase 6)
  - 7) Stage 1(g) Precincts 6-11
  - 8) Stage 1(h) Precincts 12 – 14

#### Construction Staging (Civil Works)

A7. Civil works are to be constructed in stages as generally described below:

- 1) Stage 1 – Bulk earthworks and civil infrastructure – Tweed Coast Road intersection and civil infrastructure for Precincts 1 and 5

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- 2) Stage 2 – Roadworks for the remainder of the Kings Forest Parkway and the roads to Precincts 12 to 14.

### Subdivision Staging

A8. Precinct 5 is to be subdivided into 376 torrens title residential lots in stages as generally described below:

|          | Townhouses | Terraces | Duplexes | Zero-Lot Dwelling | Traditional Detached Dwelling | Totals     |
|----------|------------|----------|----------|-------------------|-------------------------------|------------|
| Stage 1  | -          | 23       | 3        | 36                | 48                            | 110        |
| Stage 2  | -          | -        | 2        | 18                | 3                             | 23         |
| Stage 3  | -          | -        | 1        | 8                 | 6                             | 15         |
| Stage 4  | -          | -        | 3        | 23                | 13                            | 39         |
| Stage 5  | -          | -        | 1        | 36                | 22                            | 59         |
| Stage 6  | -          | -        | 3        | 17                | 3                             | 23         |
| Stage 7  | -          | 14       | 3        | 20                | 12                            | 49         |
| Stage 8  | -          | -        | 5        | 18                | 8                             | 31         |
| Stage 9  | -          | -        | 4        | 16                | 6                             | 26         |
| Stage 10 | 1          | -        | -        | -                 | -                             | 1          |
|          |            |          |          |                   | <b>TOTAL</b>                  | <b>376</b> |

Stages 1, 2 and 3 shall be undertaken first. The order of subsequent stages can be varied by the Proponent with the written approval of the ~~Director General~~ **Secretary**.

### Statutory Requirements

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.

**Note: This condition does not override the provisions of Section 75U of the EP&A Act**

*Environmental Planning and Assessment Act 1979*

### Road Works

A10. All road works associated with the proposal will be at no cost to council.

**Note: Contribution credits will apply for any works undertaken on the Tweed Coast Road which are included in the TRCP, Section 94 Plan No. 4.**

### Certification

A11.

- 1) Construction certificate: Prior to the commencement of bulk earthworks and subdivision works, the Proponent must obtain the appropriate Construction certificates for the proposed works from either council or an accredited certifier.
- 2) Subdivision certificate: Prior to registration of the plan of subdivision of the project, under Division 3 of Part 23 of the *Conveyancing Act 1919*, a Subdivision Certificate pursuant to Section 109C(1)(d) of the Act must be obtained in accordance with Section 109D(d) of the Act.

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- 3) Notwithstanding any other condition of this approval, separate Construction certificates for bulk earthworks and civil works (including any approved staging) may be issued.

### Limits of Approval

A12.

- 1) This approval does not give approval to ~~the first use of the rural supplies building in Precinct 1, including hours of operation, car parking, access to Tweed Coast Road, retail fit out, first use or signage of the building in Precinct 1.~~ Separate development ~~approval/s~~ consent for these matters must be obtained.
- 2) ~~The use of the building as a service station/food and drink premises shall not commence until an occupation certificate is issued for the internal fit out.~~
- 3) ~~Pub/s, small bar/s or outdoor dining areas are not permitted within Precinct 1 (service station/food and drink premises).~~
- 4) This approval does not approve the removal of any heathland within the full extent of the 50 metre ecological buffers in the locations depicted as 'Heath to be Naturally Regenerated' in Figure 12 of the Buffer Management Plan for Precinct 1 & 5 titled 'Revised Heath Regeneration and Revegetation Areas' drawn by James Warren and Associates and dated 20 August 2012 and Figure 9 of the Buffer Management Plan for Precincts 2-4 & 6-14 titled 'Revised Heath Regeneration and Revegetation Areas' drawn by James Warren and Associates and dated 20 August 2012. The heathland in these locations is to be protected and regenerated for the full 50m width of the ecological buffer.
- 5) This approval does not approve any bulk earthworks within ecological buffers across all precincts as depicted on Drawing No. 12301-ALL-041 Revision B, with the exception of minor encroachments into the Precinct 5 ecological buffer for the construction of stormwater management areas (bioinfiltration and vegetated swales), placement of Koala fencing, and construction of Road No. 9 in the south western corner of Precinct 5 for an area of 686m<sup>2</sup> as contained within the Proponent's Preferred Project Report 2012 and shown on the Precinct 5 Swale Sections Plan (Drawing No.12301-SK-044 Amendment C dated 15 August 2012) and Road Reserve / Buffer Interface Plan (Drawing No.12301-SK-046 Amendment A dated 17 August 2012).
- 6) This approval does not give approval to any bulk earthworks in Precinct 3. Separate approval(s) for these works must be obtained from council if required by the EP&A Act 1979.
- 7) This approval does not give approval for any transport of fill sourced within the land that is the subject of the approval to other land.

### Management and Maintenance of Environmental Lands

~~A13. The Proponent is responsible for the management of all Potential Council Land and Future OEH Land to be dedicated to Council in the future and the Offset Areas for conservation purposes and the implementation of all establishment period and maintenance period works ongoing management and maintenance activities specified in all Environmental Management Plans from the date on which bulk earthworks are commenced date of the Stage 1 project approval (08\_0194), until such time that an agreement is reached with OEH and/or Tweed Shire Council regarding the dedication of that land.~~

### Management and Maintenance of Environmental Lands

A13. The proponent is responsible for the management of all Potential Council Land and Future OEH Land for conservation purposes and the implementation of all establishment period and maintenance period works specified in all Environmental Management Plans from the date of the commencement of the project, or at another time directed by the Secretary, until such time that an agreement is reached with OEH and /or Tweed Shire Council regarding the dedication of that land.

Note: For the purpose of this condition, commencement is taken to mean any physical works including clearing vegetation, the use of heavy duty equipment for the purpose of breaking ground for bulk earthworks, or infrastructure for the proposed project.

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### Prescribed Conditions

A14. The Proponent shall comply with all relevant prescribed conditions of the project approval under Part 6, Division 8A of the Regulation.

### ~~Director General as Moderator~~

~~A15. Where this approval requires further approval from public authorities, the parties shall not act unreasonably in preventing an agreement from being reached. In the event that an agreement is unable to be reached within 2 months or a timeframe otherwise agreed to by the Director General, the matter is to be referred to the Director General for resolution. All areas of disagreement and the position of each party are to be clearly stated to facilitate a resolution.~~

### Dispute Resolution

A15. In the event that a dispute arises between the proponent and Council or a public authority other than the Department, in relation to a specification or requirement applicable under this consent, the matter may be referred by either party to the Secretary, or if not resolved, to the Minister, whose determination of the dispute shall be final and binding to all parties. For the purpose of this condition, 'public authority' has the same meaning as provided under Section 4 of the EP&A Act.

### Legal Notices

A16. Any advice or notice to the approval authority shall be served on the ~~Director General~~ **Secretary**.

### Lapsing of Approval

A17. In order that the approval remains relevant to the planning intent for the area, the approval shall lapse ~~5 years after the determination date of this approval~~ **on 31 December 2019** unless building, engineering or construction work relating to the works authorised by this approval is physically commenced on the land to which this approval applies before this date.

### Investigatory and Monitoring Work

A18.

1. **Despite any other condition of the Project Approval, but subject to sub-conditions (2)-( 5) below, a construction certificate may be issued under the Project Approval for Investigatory and Monitoring Work relating to the works authorised by this Project Approval. Any other conditions precedent imposed by this Project Approval for the issue of a construction certificate do not apply to a construction certificate issued pursuant to this condition.**
2. **A construction certificate issued pursuant to this condition must not authorise work that is the use of heavy duty equipment for the purpose of breaking ground for bulk earthworks or infrastructure.**
3. **Prior to the issue of a construction certificate pursuant to this condition for any works, the Environmental Management Plans referred to in conditions 40, 41, 42, 43, 44, 45A, 47 and the Summary of Management Plans referred to in condition 48 of this Project Approval must be submitted to the Secretary in accordance with those conditions.**
4. **A construction certificate pursuant to this condition for any clearing of vegetation must not be granted prior to the approval of the Environmental Management Plans referred to in conditions 40, 41, 42, 43, 44, 45A, 47 and the Summary of Management Plans referred to in condition 48 of this Project Approval by the Secretary.**
5. **Any work authorised by a construction certificate issued pursuant to this condition must be consistent with the Environmental Management Plans submitted to the Secretary in accordance with sub-condition (3) above and any approved Environmental Management Plans.**

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## PART ONE – SUBDIVISION OF ENTIRE SITE

### Subdivision of Kings Forest Estate

1.

- 1) The Proponent shall subdivide the ~~entire~~ site. ~~prior to commencing any bulk earthworks across the site.~~ The subdivision at this stage shall be generally in accordance with the following plans:

| Plan of Subdivision prepared by Landsurv Pty Ltd |          |                                                                                              |          |
|--------------------------------------------------|----------|----------------------------------------------------------------------------------------------|----------|
| Drawing No.                                      | Revision | Name of Plan                                                                                 | Date     |
| Sheet 1 of 5                                     | E        | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application | 05.02.13 |
| Sheet 2 of 5                                     | E        | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application | 05.02.13 |
| Sheet 3 of 5                                     | E        | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application | 05.02.13 |
| Sheet 4 of 5                                     | E        | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application | 05.02.13 |
| Sheet 5 of 5                                     | E        | Plan of Proposed Staged Subdivision Kings Forest Development For Stage 1 Project Application | 05.02.13 |

- 2) The subdivision shall create the following new allotments:

| Proposed Lot | Proposed Use                                                                                      | Area              |
|--------------|---------------------------------------------------------------------------------------------------|-------------------|
| Lot 1        | Precinct 1 – <del>rural supplies development</del> <b>service station/food and drink premises</b> | 2.368 ha          |
| Lot 2        | Precinct 5 – residential development and part of Kings Forest Parkway                             | 41.28 ha          |
| Lot 3        | Environmental protection areas to be dedicated to NPWS (including roads proposed to be closed)    | 180.6 ha          |
| Lot 4        | Environmental protection areas to be offered to TSC for dedication                                | 5.18 ha           |
| Lot 5        | Environmental protection areas to be offered to TSC for dedication                                | 4.686 ha          |
| Lot 6        | Regional sewer pump station                                                                       | 396m <sup>2</sup> |
| Lot 7        | Precincts 2, 3 and 4                                                                              | 36.94 ha          |
| Lot 8        | Road to southern precincts                                                                        | 1.119 ha          |
| Lot 9        | Part of Kings Forest Parkway and road to southern precincts                                       | 3.967 ha          |
| Lot 10       | Precincts 6 to 14                                                                                 | 592.2 ha          |

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## Registration of Easements / Restrictions to Use / Rights of Carriageway

2.

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable to the subdivision of the entire Kings Forest Estate 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.
  - c) Easements for existing and proposed powerlines benefiting the energy supplier to allow access for maintenance purposes
  - d) An easement over the existing 600mm water main across Precincts 12, 13 and 14 registered on title over the location of the main. The 88B is to benefit council and contain a provision enabling the easement to be revoked, varied or modified only with the consent of council.
- 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* 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.

## Environmental Offset Areas

3. ~~Within 3 months of the date of this approval, or as otherwise agreed with the Director-General, the Proponent shall:~~
  - ~~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~~
  - ~~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;~~
  - ~~c) ensure that the boundaries so 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~~
  - ~~d) submit for the Director-General 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:~~
    - ~~i. bind all future landowners;~~
    - ~~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 is not subject to any amended plans of subdivision, the Proponent must within 1 month of the Director-General 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.~~
  - ~~f) Where land to be dedicated to Council in the future or the Offset Area is subject to any amended plans of subdivision, the Proponent must within 3 months of the later of the Director-General **Secretary's** approval of the amended plans of subdivision under condition 3(1)(b) or the Director-General **Secretary's** approval of 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~~

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~~future or the Offset Area to the Director-General evidence of such registration within 10 days of the dealing(s) being registered.~~

### **Environmental Offset Areas**

3. Prior to commencing any Bulk Earthworks in a Precinct, or as otherwise agreed between the Proponent and the Secretary, the Proponent shall:

a) engage a registered surveyor to prepare survey plan(s) and permanently mark the boundaries of the:

- i) the contiguous area of Potential Council Land; and
- ii) the contiguous area of Future OEH Land

immediately adjacent to the Precinct (unless the relevant contiguous area has already been marked due to the earlier commencement of Bulk Earthworks in another Precinct). A staging plan for the survey works is to be submitted to the Department prior to the commencement of the project.

- b) where relevant, submit amended plans of proposed subdivision to the Secretary for approval that show the relevant contiguous Potential Council Land and the relevant contiguous Future OEH Land as separate lots;
- 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
- d) submit for the Secretary's approval, a form of dealing(s) to be registered on the title to the Potential Council Land and the Future OEH Land that must:
  - i. bind all future landowners;
  - ii. provide for the management of the Potential Council Land and the Future OEH Land for conservation purposes including the implementation of relevant Environmental Management Plans, in perpetuity;
  - iii. permit access to the Potential Council Land and the Future OEH Land 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 Potential Council Land or the Future OEH Land are transferred to a public authority.
- e) Where the Potential Council Land or the Future OEH Land is not subject to any amended plans of subdivision, the Proponent must within 1 month of the Secretary'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 Potential Council Land or the Future OEH Land and provide to the Secretary evidence of such registration within 10 days of the dealing(s) being registered.
- f) Where Potential Council Land or the Future OEH land is subject to any amended plans of subdivision, the Proponent must within 3 months of the later of the Secretary's approval of the amended plans of subdivision under condition 3(b) or the Secretary's approval of dealing(s) referred to in condition 3(d), lodge for registration the dealing(s) on the relevant titles to the Potential Council Land or the Future OEH Land to the Director-General evidence of such registration within 10 days of the dealing(s) being registered.

Note: For the purpose of this condition, commencement is taken to mean any physical works including clearing vegetation, the use of heavy duty equipment for the purpose of breaking ground for bulk earthworks, or infrastructure for the proposed project.

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## PART TWO – BULK EARTHWORKS AND CIVIL WORKS (ALL PRECINCTS)

### PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

#### **Pre-Construction Dilapidation Report**

4. The Proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all retained existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for Stage 1 bulk earthworks. A copy of the report is to be forwarded to the department and council.

#### **Earthworks Prohibited in Ecological Buffers**

5. Prior to the issue of the first construction certificate for bulk earthworks, all civil works drawings shall be amended and submitted to the department for approval. The amended plans must clearly demonstrate that there will be no earthworks activities in the full 50 metre width of the ecological buffers anywhere across the site, with the exception of Precinct 5, as outlined in Condition A12 above and Roads 9, 10 and 23 that traverse the ecological buffers to access the southern and western precincts.

#### **Construction Compliance Bond**

6. Prior to the issue of the first construction certificate for Civil Works, a cash bond or bank guarantee (unlimited in time) shall be lodged with council for an amount based on 1% of the value of the Civil Works as set out in council's fees and charges at the time of payment. The bond may be called up at any time for the payment of the cost of either or both of the following non compliances with the conditions of approval:
  - a) Making good any damage caused to any property of the Council as a consequence of the doing of anything to which the approval relates;
  - b) Completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the approval.

#### **Long Service Levy**

7. In accordance with Section 109F(1b) of the Act, a Construction Certificate for subdivision works or building works shall not be issued until any long service levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

### EARTHWORKS

#### **Heavy Haulage Component**

8. ~~Payment of a contribution pursuant to Section 94 of the EP&A Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 – Version 6.01.1 (as in force at the date of this approval) is required prior to the issue of the first subdivision certificate.~~

#### **Staging of Bulk Earthworks**

9. Staging of the bulk earthworks shall be in accordance with the following:
  - a) A Construction Certificate application for Bulk Earthworks shall be lodged for each of the proposed 8 (eight) sequences or stages for the earthworks as detailed in the bulk earthworks drawings numbers 12301-ALL-041 Revision B prepared by Mortons Urban Solutions dated 16 October 2012.
  - b) An earthworks phasing diagram shall be submitted with each application for a construction certificate for bulk earthworks to define maximum exposed areas.
  - c) A detailed construction management strategy is to be provided for each sequence/stage of the bulk earthworks, identifying how the site and earthworks are to be programmed and managed.

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- d) Bulk earthworks for the site are to be limited to a maximum exposed disturbed area (that has not been permanently vegetated) not exceeding a maximum of 5ha at any time to reduce exposed areas, unless otherwise approved by the ~~Director-General~~ **Secretary** at the request of the Proponent.
- e) Bulk Earthworks Sequence 9 is to be further managed by being broken down into smaller maximum exposed areas, no greater than 5ha.
- f) Notwithstanding d) above, the Kings Forest Precinct 1-5 Earthworks Phasing Diagram dated 29 January 2013 Revision A is approved subject to the following modifications:
  - i. Phase 1 shall be further broken down into two phases with a maximum exposed area no greater than 5.5ha.
  - ii. Phase 2 shall be broken down into two phases with a maximum exposed area no greater than 9ha.
  - iii. Phase 3 shall be broken down into two phases with a maximum exposed area no greater than 7ha.
  - iv. Phase 6 shall be broken down into two phases with a maximum exposed area no greater than 9ha.
- g) Works are to be topsoiled, mulched and seeded within 7 days after completion to protect the exposed areas from water and wind erosion.

### **Plans of Bulk Earthworks**

10. The Proponent shall submit the following plans and specifications with an application for construction certificate for the Bulk Earthworks:
- a) Natural and finished development levels (spot levels and contours) clearly detailed with a legible scale.
  - b) Sediment and erosion control plans
  - c) Geotechnical compliance
  - d) Planting/hydromulching for short term and long term batter slopes
  - e) An earthworks phasing diagram that defines maximum exposed areas
  - f) Maximum batter slopes shall be consistent with the recommended maximum batter slopes for stability in the geotechnical report titled "Geotechnical Investigation proposed residential subdivision Depot Road Kings Forest" prepared by Cardno Bowler dated 7 April 2011.
  - g) Areas in which the natural slope exceeds 25%, a qualified geotechnical engineer is to provide further advice in relation to cut / fill construction for the bulk earthworks.
  - h) A shake down area along the haul road immediately before the intersection with the road reserve.
  - i) Compliance with the provisions of Council's Design Specification D6 – Site regarding.
  - j) Measures to be implemented during bulk earthworks operations to ensure the existing 600mm trunk water main is protected.

### **Bulk Earthworks Geotechnical Compliance**

11. Each stage shall be preceded by an endorsement of detailed earthworks design plans by a practising geotechnical engineer to certify compliance of the plans and implementation strategy with the conclusions and recommendations of the Geotechnical Report prepared by Cardno Bowler titled Geotechnical Investigation proposed subdivision Depot Road, Kings Forest dated 7 April 2011.

### **Retaining Walls**

12. Any retaining walls and/or shoring must be designed and installed in accordance with appropriate professional standards and the relevant requirements of council's Development Design Specification D6 – Site Regrading (as in force at the date of this approval), the BCA and Australian Standards. Details of proposed retaining walls and/or shoring are to be submitted to and approved by the certifying authority prior to commencing such excavations or works.

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## Compressible Clay Material in Precincts 11, 12 to 14

13.

- ~~1) No filling is to occur in these areas until certification is provided by a practicing geotechnical engineer. The certification is to state that no settlement will occur and the proposed areas are capable of being developed without the need for special construction techniques. Settlement plate information is to be provided with geotechnical certification from a qualified geotechnical engineer to validate that settlement has terminated.~~
- 1) Areas of compressible clay material in Precincts 11, 12-14 (Bulk Earthworks Sequences/Stages 3 & 4) are to be to the satisfaction of a practicing geotechnical engineer.
- 2) Prior to the issue of a Construction Certificate for the filling of any area within Precincts 11, 12 - 14 a detailed geotechnical investigation is to be carried out by an appropriately qualified practising geotechnical engineer to the satisfaction of the Secretary. The investigation is to identify any areas of compressible clay materials which may require preloading or other forms of treatment necessary to deliver the appropriate consolidation to suit future development.
- 3) All earthworks are to be carried out in accordance with AS3798-2007 (Guidelines on earthworks for commercial and residential Developments) under Level 1 supervision and in accordance with the requirements of the findings of the detailed geotechnical investigation as per condition in 2) above. Any preloading or other forms of work carried out to ensure the appropriate consolidation of any compressible clay materials are to be monitored and assessed against the relevant performance criteria.
- 4) At the completion of the works and prior to the issue of a subdivision certificate for any proposed allotments within Precincts 11, 12-14 an appropriately qualified practising geotechnical engineer is to provide certification that all filling works have been carried out under Level 1 Supervision in accordance with AS3798-2007 and, where applicable, compressible clay materials have achieved the required levels of consolidation.

## Cut and Fill Levels

14. Cut and fill levels for each stage within the project are to be generally in accordance with the Bulk Earthwork Cut and Fill Level Diagram 12301-ALL-040 Revision F prepared by Mortons Urban Solutions dated 16 October 2012. Cut and fill is not approved in the full 50m width of all ecological buffers, as specified in Condition ~~A12(3)~~ A12(5).

## Site Regrading

15. Site regrading undertaken for all stages of the project must be undertaken in accordance with council's Development Design Specification D6 – Site Regrading (as in force at the date of this approval). Evidence of compliance with this specification must be provided to the Certifying Authority for approval (by way of engineering plans) prior to issue of the construction certificate for each stage of the project.

## Heavy Haulage Management Plan

16.

- 1) A revised haulage management plan is to be provided for the proposed importation of 320,000m<sup>3</sup> of fill to the site. The management plan is to include:
  - a) Alignment of the haulage route
  - b) Documentation to demonstrate that the alignment and width of the road network is suitable for a truck and/or trailer combination travelling at the prevailing speed environment for the road
  - c) Pavement testing results and corrective actions where necessary
  - d) Time frame for the proposed haulage of material
  - e) Source of fill material
  - f) Certification from a practicing geotechnical engineer that the material is suitable for the intended purpose prior to the commencement of filling works for each stage of the subdivision involving imported fill. The report is to include any conditions on the use of the material and a report from a registered NATA laboratory on the soil properties of the fill material.

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- g) Address impacts on the surrounding road network and residents
  - h) Applicable environmental management measures
  - i) Traffic control plan prepared by a suitably qualified person
  - j) An assessment of the impacts of noise, dust and community safety on adjoining land uses along the proposed haul route.
  - k) The management plans should also include an assessment of alternative haul route options.
- 2) The haulage management plan is to be provided when the importation of fill material is required and is to be lodged with the application for a Construction Certificate (bulk earthworks) for sequence / stage 9 as detailed on drawing number 12301-ALL-050 (A) titled 'Bulk Earthworks sequencing diagram sequence 9 detail sheet' prepared by Mortons Urban Solutions dated 24 August 2012.

### **Acid Sulfate Soil Management Plan**

17.

- 1) Where soil testing prior to the commencement of construction identifies the presence of acid sulphate soils, a detailed **Acid Sulfate Soil Management Plan** shall be prepared by a suitably qualified person in accordance with the Acid Sulfate Soil Assessment Guidelines (Acid Sulphate Soil Management Advisory Committee, 1998). The Management Plan shall be prepared in consultation with the NSW Office of Water and submitted to the Certifying Authority prior to the issue of a construction certificate for Stage 1 bulk earthworks.
- 2) The Plan must be consistent with the Kings Forest Stage 1 Management Plan.

### **Contamination**

18. A Site Audit Statement prepared by an accredited NSW Site Auditor appointed under the provisions of the *Contaminated Land Management Act 1997* shall be provided to the certifying authority certifying the suitability of the subject land, being Precincts 1, 5 and subdivision and infrastructure works associated with Stage 1, for the intended purposes.

### **WATER MANAGEMENT**

#### **Groundwater Management – Licensing Requirements**

19. The Proponent must obtain all relevant licences under the *Water Act 1912* and the *Water Management Act 2000* (whichever is relevant at the time the application is made) for all activities that intercept or extract groundwater and surface water, including constructed ponds/wetlands/lagoons.

#### **Integrated Water Cycle Management Plan**

20. The Proponent shall engage a suitably qualified person to prepare a revised **Integrated Water Cycle Management Plan** for the whole site, to be submitted to the satisfaction of the PCA prior to the issue of a construction certificate for Stage 1 civil works. The Plan shall be prepared generally in accordance with the Integrated Water Cycle Management Plan contained in the PPR, and shall include, but not be limited to the following:
- 1) Engineering designs for stormwater, drainage and water sensitive urban design measures at the site, including rainwater tanks, infiltration systems, vegetated swales, bioretention trenches, pervious parking areas and constructed wetlands.
    - a) Water Sensitive Urban Design measures are to be designed in accordance with the *Water Sensitive Urban Design Technical Design Guidelines for South East Queensland (Healthy Waterways)* and *Council's Development Design Specification D7 - Stormwater Quality*.
    - b) Stormwater mitigation measures shall be designed to comply with section 120 of the *Protection of the Environment Operations Act 1997* to prohibit the pollution of waters from the operation of the Project.
    - c) The design of any constructed wetland must be in accordance with any Harvestable Right Order published under Section 54 of the *Water Management Act 2000*.
    - d) All water quality treatment and/or detention devices that are constructed below the water table must be lined (clay or geo-fabric) to minimise the hydraulic connection with the surrounding groundwater system.

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- 2) Hydrology and hydraulic calculations based on models described in the current edition of *Australian Rainfall and Runoff*.
- 3) A maintenance plan for all stormwater mitigation measures including Water Sensitive Urban design to be maintained to their design specifications into perpetuity.
- 4) The Plan must be consistent with the Kings Forest Stage 1 Management Plan.

## Stormwater Management

21.

- 1) An all weather maintenance access track shall be provided alongside the Kings Forest biofiltration swale to ensure maintenance activities can occur without disruption to road users. This track must be retained until such time that Kings Forest Parkway is upgraded to a 4 lane layout.
- 2) All plantings in biofiltration areas must be included in detailed landscaping plans, with requirements relating to bushfire protection taking precedence where they are located within APZs.
- 3) The interim water quality criteria / discharge criteria for aluminium be revised downward to reflect the ANZECC guideline method.
- 4) The maximum concentration of suspended solids that may be discharged under controlled conditions from the site in stormwater during construction and operational phases shall be derived in accordance with the ANZECC method of determination.
- 5) Water quality at proposed surface water quality monitoring sites SW1 - SW7 is to be monitored and reported on in accordance with water quality objectives set for the Tweed Catchment by the NSW Office of Environment and Heritage as follows:

| Parameter         | Unit     | Objective as per NSW Office Environment and Heritage |
|-------------------|----------|------------------------------------------------------|
| pH                | pH units | Freshwater 6.5 - 8.5<br>Estuary 7 - 8.5              |
| Dissolved oxygen  | mg/L     | 80 - 100% saturation                                 |
| Turbidity         | NTU      | 0.5 - 10 NTU                                         |
| Total phosphorous | mg/L     | 0.03 mg/L                                            |
| Total nitrogen    | mg/L     | 0.3mg/L                                              |
| Chlorophyll a     | ug/L     | <4                                                   |

## Flood Management

22.

- 1) Each stage of the development must be designed to ensure that the flood management (including evacuation measures to ground above the Probable Maximum Flood) arrangements for the site (as it relates to the relevant stage of the project) is consistent with the Flooding and Flood Management Assessment prepared by Gilbert & Sutherland dated June 2011, the Preliminary Flood Assessment prepared by Gilbert & Sutherland dated December 2012 and the NSW Coastal Planning Guideline: Adapting to Sea Level Rise 2010 or successive documents.
- 2) Compliance with the requirements of part 1) of this condition must be certified by a suitably qualified hydrology/hydraulic engineer and submitted to the Certifying Authority prior to the issue of a Construction Certificate for Stage1 bulk earthworks.

## ROADS AND TRAFFIC

### Road Design

23.

- 1) Kerb and gutter (kerb/edge restraint on one way cross fall roads) stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc) and paved footpaths shall be constructed along the full length of the new roads.

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- 2) The design of all roads shall be consistent with the Stage 1 Project Application Road Hierarchy (Plan No. 06) prepared by RPS dated 23 August 2012 and the Stage 1 Project Application Precinct 5 Road Network plan (Plan No. 15) prepared by RPS dated 29 August 2012, except where amended by this condition.
- 3) Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the Certifying Authority prior to the issue of a Construction Certificate for civil works for each stage of the project.
- 4) Construction of all roads must be to an urban, asphalt road formation to Council's Development Design Specification D1 – Road Design.
- 5) All landscaping indents along Kings Forest Parkway for the entire proposed length from Tweed Coast Road through to proposed Road 9, that reduce the pavement width to less than 9m shall be removed or reduced in size such that the road carriageway may be constructed to a minimum pavement width of 9m.
- 6) Kings Forest Parkway road carriageway is to be constructed to a minimum pavement width of 9m from the entry with Tweed Coast Road through to proposed Road 9, with the exception of those sections of Kings Forest Parkway including intersections that conform with Austroads Standards, shown on Drawing No 12301-SK-122, Amendment A, Mortons Urban Solutions 29 June 2018, and Road Hierarchy and Staging Plan Drawing No 12301-EMAW-005 and 006, Rev A – Mortons Urban Solutions (as submitted with MOD 8), which shall have a minimum pavement width of 7m. These details are to be provided on an application for a Construction Certificate.
- 7) All proposed roads (laneways) shall provide a minimum pavement width of 6m.
- 8) Access roads are to have a minimum horizontal curve radius of 10m for access roads and 15m for neighbourhood collector roads to eliminate sharp curves.
- 9) All batter slopes for road embankments greater than 1:4 are to be planted. The planting details are to be shown on a landscaping plan prepared by a suitably qualified person.
- 10) Details of fauna exclusion fencing and underpasses for roads traversing Environmental Protection Areas are to be provided to the ~~Director-General~~ **Secretary** for approval prior to the issue of a construction certificate for bulk earthworks in the southern and/or western development precincts. This may include temporary fencing and underpasses during the construction phase.
- 11) Prior to the issue of a Construction Certificate for each Stage, the Applicant shall demonstrate that clearances between proposed sewerage infrastructure meets the minimum clearances between sewers and other underground services as outlined in WSA02-2014 Table 5.4. Where standard alignments deviate, final alignment of sewer services are subject to Tweed Shire Council's final approval as the Water and Sewer Authority.
- 12) Prior to the issue of a Construction Certificate for each Stage, the Applicant shall demonstrate that clearances between proposed water supply infrastructure shall meet the minimum clearances between sewers and other underground services as outlined in WSA03-2011 Table 5.5. Where standard alignments deviate, final alignment of sewer services are subject to Tweed Shire Council's final approval as the Water and Sewer Authority.
- 13) Prior to the issue of a Construction Certificate for each Stage, the Applicant shall demonstrate that minimum cover over proposed water supply and sewerage infrastructure meets the minimum cover over pipelines as outlined in TSC Development Specifications D15 Table 1. Where standard covers deviate, final cover of sewer and water services are subject to Tweed Shire Council's final approval as the Water and Sewer authority.

### Regulatory Signage

24. All traffic regulatory signage and line marking is to be in accordance with the Australian Standard 1742.13-5009, Manual of Uniform Traffic Control Devices and the Roads and Maritime Services NSW signage guidelines, including supplements to AS1742 for each stage of the subdivision.

### 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.

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- 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 lot. A contribution credit is to be applied against the council's Section 94 Plan No.22 – Cycleways for construction of this cyclepath.
- 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.

### Intersections

26. A two lane roundabout shall be constructed in general accordance with Mortons Urban Solutions Drawing Number 12301-EMAW-101 (Amendment D) at the intersection of Tweed Coast Road and the Kings Forest Parkway prior to the release of the first residential lot in Precinct 5, or the development of issue of the first Occupation Certificate for development within Precinct 1, whichever occurs first.

### Old Bogangar Road Access

27.
  - 1)
  - 2) ~~Detailed design of the proposed intersection between the Old Bogangar Road service road and Tweed Coast Road, endorsed by the Director of Engineering and Operations of Tweed Shire Council (the Road Authority), shall be provided to the satisfaction of the Director-General Secretary within 24 Months 12 months of the date of this approval.~~
  - 3) ~~The detailed design shall take into account the proximity of, and access arrangements at, the Kings Forest Parkway / Tweed Coast Road intersection, and the Precinct 1 access driveway, incorporating the relevant specifications of AUSTROADS, Roads and Maritime Services, and Standards Australia.~~
  - 4) ~~Options to be considered to achieve compliant intersection arrangements shall include (but not be limited to):~~
    - a. ~~Relocation of the Precinct 1 driveway to create a four-way intersection with old Bogangar Road;~~
    - b. ~~Appropriate intersection treatment of the four-way intersection created by (a);~~
    - c. ~~Provision of U-turn facilities on Tweed Coast Road;~~
    - d. ~~Connection of Old Bogangar Road to Kings Forest Parkway.~~
  - 5) ~~Individual and adjacent intersection modelling be provided to ensure all movements achieve adequate levels of service, queue lengths and time delays, to the satisfaction of the Road Authority.~~
  - 6) ~~Any preferred option that requires the realignment of Old Bogangar Road from its existing connection to Tweed Coast Road requires stakeholder consultation and separate planning approval from Council.~~
  - 7) ~~The detailed design shall be submitted to Council with an application under s138 of the Roads Act 1993 for approval prior to the issue of a construction certificate for any works on a public road.~~

### Intersection Design

28.
  - 1) Final intersection design plans shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate for relevant civil works for the following intersections:
    - a) Tweed Coast Road and ~~service station/food and drink premises Rural Retail Access~~ (Precinct 1);
    - b) ~~Tweed Coast Road and Old Bogangar Road;~~
    - c) Tweed Coast Road and Kings Forest Parkway;
    - d) Town Centre Access and Kings Forest Parkway;
    - e) Residential Precinct 5 access and Kings Forest Parkway; and
    - f) Access Roads to southern precincts and Kings Forest Parkway.

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Advisory Note: Detailed design of (a) ~~and~~ (b), and (c) shall be submitted to Council with an application under s138 of the Roads Act 1993 for approval prior to the issue of a construction certificate for any works on a public road.

### **Depot Road Access and Services**

29.

- 1) Closure of the Depot Road road reserve and the existing access to the Depot Road sports fields site shall not occur until an alternative access road capable of supporting the continued development and future use of the sports fields is provided, and the road reserve is dedicated to Council. The alignment of the access to the Depot Road sports fields site shall be compatible with the concept layout for the proposed sports fields, taking into account boundary constraints, vegetation mapping, current consents and future infrastructure servicing needs, including water, sewerage, telecommunications, and electricity, to the satisfaction of council.
- 2) The design of the Kings Forest water, sewerage, electricity and telecommunications networks adjacent to the Depot Road sports fields must provide adequate capacity for the future connection of this site by council.

### **UTILITIES**

#### **Water Supply and Sewerage Strategy**

30. Prior to the issue of a Construction Certificate for civil works the Proponent shall engage a suitably qualified person to prepare a detailed Water Supply and Sewerage Strategy for the whole site in consultation with and to the satisfaction of Council.

#### **Water & Sewer**

31.

- 1) Reticulated water supply and outfall sewerage reticulation shall be provided to ~~all lots~~ **all residential lots and all lots for private occupation, community facilities lots, sports fields, parks, play areas, other utility facilities (pump stations etc.) but not including proposed environmental open space 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).
- 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.

#### **Zone Substation**

32. The final location of the new zone substation must be approved by Essential Energy prior to the issue of a Construction Certificate for civil works.

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### **Protection of Existing Assets**

33. Prior to the issue of a construction certificate for bulk earthworks the Proponent is to provide documentary evidence that an easement five (5) metres wide and centrally located over the existing 600mm trunk water main has been created in Lots 76 and 272 on DP755701.

### **BUSHFIRE**

#### **Bushfire Risk Management Plan**

34. The Bushfire Risk Management Plan (BRMP) shall be amended to address the following:
- 1) Co-operative relations between neighbours to minimise the potential for wildfires and work towards fire frequencies and intensities that do not impact on Koala populations
  - 2) Management actions required for future ongoing fire related Koala management in environmental protection zones.
  - 3) The revised BRMP shall be endorsed by OEH prior to the issue of a construction certificate for civil works.

### **LANDSCAPING**

#### **Landscape Plan**

35. A revised **Landscape Plan** by a qualified landscape architect must be submitted for all areas of casual open space, structured open space, cycleways, pedestrian walkways, fauna crossings, vegetated stormwater treatment facilities, and streetscapes to be dedicated to council. Such a plan must be approved by council prior to the issue of a Construction Certificate for Stage 1 bulk earthworks. The Plan shall:
- 1) Include a planting schedule. Species selection shall be limited to locally occurring native species.
  - 2) Include embellishments that do not exceed the requirements of council's Subdivision Manual (Section A5 of the Tweed Development Control Plan) (as in force at the date of this approval) and Development Design Specification (D14) (as in force at the date of this approval) and related Standard Drawings (as in force at the date of this approval) and include grassing, landscaping, seating, playground equipment and shade cover.
  - 3) Address the standard and extent of streetscaping such that it will not place undue maintenance requirements on Council following the establishment period. This includes elimination or redesign of any streetscaping features such as median and roundabout plantings, which require the closure of traffic lanes in order for workers to carry out routine maintenance in a safe manner; the size and location of large trees in relation to stormwater facilities and underground services; and the number and location of garden beds in road reserves.
  - 4) Include details showing the final drainage, edging, paving, surface finishes, retaining wall and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
  - 5) Comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
  - 6) Include details showing how all landscaping elements under the plan shall be maintained in accordance with the Plan into perpetuity.
  - 7) Be consistent with the Landscape Plan for Precinct 1 and the Stage 1 Statement of Landscape Intent.
  - 8) Be compatible with the Kings Forest Stage 1 Management Plan.

#### **Landscaping**

- 36.
- 1) Any playgrounds included in landscape plans must comply with the guidelines established in the 'Playground Audit for Tweed Shire Council' (July 2009), particularly in relation to nearby hazards and mitigation measures.  
Note: New subdivisions designed after development of these guidelines must ensure no playground facility has a Facility Risk Rating exceeding 13 as defined in Table 3A7 of that document.
  - 2) No estate signage or entry statement embellishments are permitted on public land or publicly owned assets unless the Proponent pays to Council a bond (based on the estimated cost of removing the facilities) for the cost of removal after a period of time agreed to by the asset owner.

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- 3) Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 15° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application. Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:
  - a. Contours and terraces where the height exceeds 1m.
  - b. Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
  - c. Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
  - d. Mulch heavily (minimum 100mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.

## MONITORING

### **Baseline Monitoring**

37.

- ~~1) Prior to the issue of a construction certificate for bulk earthworks, the Proponent must demonstrate to the satisfaction of the department that all baseline monitoring has commenced in accordance with the relevant Environmental Management Plans, including the following:
 
  - ~~a. Flora and Fauna Monitoring Report~~
  - ~~b. Groundwater Management Plan~~
  - ~~c. Overall Water Management Plan~~
  - ~~d. Stormwater Management Plan~~~~
- 1) Prior to the issue of the first Construction Certificate, the proponent must demonstrate to the satisfaction of the Department that sufficient baseline monitoring has commenced in accordance with the relevant Environmental Management Plans, including the following:
  - a. Flora and Fauna Monitoring Report;
  - b. Groundwater Management Plan;
  - c. Overall Water Management Plan; and
  - d. Stormwater Management Plan.
- 2) The Proponent must ensure that all monitoring bores and works that intersect groundwater are licensed, if relevant, from the NSW Office of Water.

## ENVIRONMENTAL MANAGEMENT

### **Drain Maintenance Management Plan**

38. The following revisions are to be made to the Drain Maintenance Management Plan (DMMP), to the satisfaction of the NSW Office of Water and the OEH:
  - 1) The implementation schedule of the DMMP shall be revised to include specific map references to identify the area of works for each action
  - 2) The Plan must be consistent with NSW Office of Water's *Guidelines for riparian corridors on waterfront land* (July 2012) and *Guidelines for Controlled Activities*.
  - 3) The use and/or maintenance of existing and proposed roads within 40 metres of any watercourse must be carried out consistently with the *Guidelines for Controlled Activities*.
  - 4) The methodology for determining the proposed maintenance requirements shall be included in the revised Plan.
  - 5) Details of a monitoring program and methodology for determining 'significant silt deposits' should be provided.
  - 6) Any trails adjacent Blacks Creek that are proposed to be maintained for the purpose of the DMMP must be clearly identified and excluded from Offset Lands identified for transfer to OEH as additions to Cudgen Nature Reserve.

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## Environmental Management Plans

39.

- 1) All Environmental Management Plans shall be revised to address management actions to be undertaken throughout the life of the project as relevant to the development precincts that the plan covers. This includes a detailed set of agreed establishment and maintenance phase performance completion criteria, ongoing monitoring and an annual maintenance schedule of works following the initial establishment period. This includes the following plans:
  - a. Flora and Fauna Monitoring Report
  - b. Buffer Management Plan
  - c. Vegetation Management Plan
  - d. Koala Plan of Management
  - e. Feral Animal Management Plan
  - f. Weed Management Plan
  - g. Threatened Species Management Plan
- 2) Performance criteria for all management plans are reviewed to ensure they are specific to each precinct and action, measurable, achievable, relevant and timely
- 3) The implementation schedule of all Environmental Management Plans shall be revised to include the following details as relevant to the precincts that the plan covers:
  - a. Actions that are specific to the precinct for which they are addressing
  - b. Specific map references to identify locations of works for all actions
  - c. Total areas to be planted (m2)
  - d. Planting density (per m2)
  - e. Number of permanent signs to be erected and maintained
  - f. Total areas for weed management activities (m2)
  - g. Length of any fencing (temporary and permanent)
  - h. Total areas for heath regeneration and revegetation (m2)
  - i. Locations and areas (m2) of proposed threatened species habitat
  - j. Timing and frequency of actions
  - k. Monitoring requirements (frequency) that are specific to the action

## Vegetation Management Plans

40.

- 1) The Works Schedule of all Vegetation Management Plans shall be amended to include "Assisted natural regeneration" as the preferred Proposed Measure for Works Areas 2, 13 and Additional Work Areas and wherever significant natural regeneration is occurring within the EPZ and/or ecological buffer areas. This approach should be adopted in preference to revegetation or rehabilitation programs, incorporated as a guiding principle in the Statement of Commitments and relevant plans.
- 2) The final Vegetation Management Plans shall be prepared in consultation with Council and submitted to the ~~Director-General~~ **Secretary** for approval within ~~12 months of this approval~~ **6 months of the date of determination of the application (No. 2012/2328) mad under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act**, or prior to issue of any construction certificate, whichever occurs first.

## Buffer Management Plans

41.

- 1) Figures 10 and 10A to 10L shall be revised as necessary to ensure that spatial overlap of heath revegetation, Koala food tree planting and Wallum Sedge Frog compensatory habitat is minimised.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) The final Buffer Management Plans shall be prepared in consultation with Council and submitted to the ~~Director-General~~ **Secretary** for approval within ~~12 months~~ **6 months of the date of determination of the application (No. 2012/2328) mad under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act** of this approval or prior to issue of any construction certificate, whichever occurs first.

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## 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.~~
- ~~2) The final Weed Management Plans shall be prepared in consultation with Council and submitted to the Director General for approval within 12 months 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act.~~
- ~~3) of this approval or prior to issue of any construction certificate, whichever occurs first.~~

42. The Weed Management Plans shall be amended to ensure that:

- 1) Control of all weeds will occur:
  - a. in Environmental Protection Zones located on the Kings Forest site; and
  - b. for a distance of 20 metres into the adjacent Cudgen Nature Reserve.
- 2) Control of Slash Pine only will occur for a further distance of 80 metres into Cudgen Nature Reserve.
- 3) Weed management activities should be undertaken utilizing bush regeneration techniques including stem injection.

## Threatened Species Management Plans

43.

- 1) Proposed "melon hole" creation shall not be permitted in Acid Frog Compensatory Areas 5, 6, 7 and 8. Details of alternative offsetting arrangements for the loss of Wallum Froglet Habitat across the site must be included in the final Threatened Species Management Plan.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) The species list in Appendix 3 of the Threatened Species Management Plan – Precincts 1 and 5, James Warren & Associates, August 2012, for restoration works within the Precinct 1 ecological buffer shall be revised to demonstrate that species used in restoration works within and adjacent to the Littoral Rainforest within Precinct 1 to include only those species known from the patch or other locally-occurring rainforest species.
- 4) Details of whether and how the proposed removal of sediment from Blacks Creek may impact upon threatened wetland bird species (black necked stork, black bittern) must be included in the Plan, including any proposed mitigation measures.
- 5) The final Threatened Species Management Plans shall be prepared in consultation with Council and submitted to the ~~Director General~~ **Secretary** for approval within ~~12 months of this approval~~ **6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act** or prior to issue of any construction certificate, whichever occurs first.

## Feral Animal Management Plan

44.

- 1) The implementation schedule of the Feral Animal Management Plan shall be revised to include the following details as relevant to the Precincts that the plan covers:
  - a. Estimated number of resources required for trapping activities, capture activities and habitat removal activities
  - b. Estimated resources required for monitoring actions
- 2) The Feral Animal Management Plan is to be revised to include mitigation and management actions for the control of Biting Insects, and consistent with Section A6 Biting Midge and Mosquito Controls of the Tweed DCP 2008.
- 3) The final Feral Animal Management Plan shall be prepared in consultation with Council and submitted to the ~~Director General~~ **Secretary** for approval within ~~12 months of this approval~~ **6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act** or prior to issue of any construction certificate, whichever occurs first.

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## Koala Plan of Management

45. The Koala Plan of Management shall be revised as follows:

- 1) ~~A revised offset strategy for the loss of Koala food trees incorporating the following:
  - a. ~~the restoration and planting of Koala food trees offsite (a 27ha area of land has been nominated by OEH and identified in Map 1. (attached)).~~
  - b. ~~planting of Koala food trees in the new east-west corridor as required by Term B4 of the Concept Plan approval.~~
  - c. ~~planting of Koala food trees in other suitable locations across the site should commence within one month of the revised KPOM being approved within each relevant precinct of the development in general accordance with the plan titled "Proposed Koala Compensatory Habitat Area Staging Plan, Condition 45, Figure 1, JWA Pty Ltd, 29 April 2014".~~
  - c. ~~planting of Koala food trees in other suitable locations across the site within each relevant precinct of the development in general accordance with the plan titled "Proposed Koala Compensatory Habitat Area Staging Plan, Condition 45, Figure 1, JWA Pty Ltd, 29 April 2014", and as modified by any approval of the revised Koala Plan of Management under this condition. The timing of plantings shall be in accordance with the approved revised Koala Plan of Management required by Condition 45(2).~~
  - d. ~~Koala food tree plantings are to be minimised in areas that are identified as naturally regenerating~~~~
- 2) ~~The revised KPOM approval shall include details of the Koala food tree planting schedule with numbers and staging and be prepared in consultation with Council and submitted to the Director General Secretary for approval within 6 months of this approval 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.~~
- 3) ~~The amended KPOM shall have regard to any determination of the NSW Scientific Committee established by the Threatened Species conservation Act 1995.~~

## Koala Offsets

45. The following offsets must be provided to compensate for the loss of 1.59 ha of primary and 6.42 ha of secondary (Class A) koala habitat on-site:

- a) the restoration and planting of koala food trees on an additional 27 ha of land within Cudgen Nature Reserve; or where the full 27 ha are not planted within Cudgen Nature Reserve, the entire or balance of the koala food tree planting will be undertaken on other lands in a Koala Activity Precinct or Koala Linkage Precinct (as defined in the Tweed Coast Comprehensive Koala Plan of Management 2015) in the Tweed Shire Council local government area, or on the Kings Forest Site as approved by the Secretary
- b) the creation of 6.26 ha of compensatory koala habitat within the east-west corridor
- c) the creation of 62.51 ha of compensatory koala habitat on residual lands on-site
- d) the on-site compensatory koala habitat, inclusive of the east-west corridor must comprise:
  - i. 65.44 ha of primary koala habitat;
  - ii. 3.33 ha of secondary koala habitat; and
  - iii. the planting of primary and secondary koala food trees,
- e) All compensatory koala habitat must be located in the areas identified in the updated Koala Plan of Management approved by the Secretary under Condition 45A of this approval.

## 45A Koala Plan of Management Update(s)

Prior to the issue of any Construction Certificate, the Proponent must submit an updated Koala Plan of Management prepared in consultation with Council and submitted to the Secretary for approval. The updated Koala Plan of Management must address the following:

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## 1. Verification of Habitat and Vegetation Mapping

- a) the boundaries of the retained koala habitat and the compensatory koala habitat identified in Figures 19 to 21 of the Koala Plan of Management dated 4 October 2018, must be verified by a suitably qualified independent ecologist, with skills in GIS mapping; and
- b) provide offset areas with a minimum of 1,000 m<sup>2</sup> in area; and
- c) the updated KPOM must include GIS shapefiles, including metadata describing each shapefile and what it represents, and how each polygon is coded for the following GIS layers:
  - i. retained koala habitat;
  - ii. compensatory koala habitat;
  - iii. retained Wallum Sedge Frog habitat;
  - iv. compensatory Wallum Sedge Frog habitat;
  - v. retained heathland;
  - vi. heathland regeneration areas; and
  - vii. any other conservation outcomes affecting the implementation of the Koala Plan of Management.

**Note:** For clarity, the management outcomes identified within the GIS layers required under b) iii) to vi) above will not form part of the final Koala Plan of Management approved by the Secretary.

These layers will be used to confirm:

- there are no overlaps between the retained and compensatory koala habitat, or the compensatory Wallum Sedge Frog habitat as outlined in Section 10.5.3 of the Koala Plan of Management dated 4 October 2018, and
- overlaps between the compensatory koala habitat and heathland regeneration areas do not exceed 10% of the total on-site offset area, as identified in the Koala Plan of Management dated 4 October 2018.

## 2. 27 ha of additional Offset

Update Section 10 of the Koala Plan of Management dated 4 October 2018, to include a framework for securing and implementing the 27 ha of additional offset required under Condition 45 above. This framework must specify:

- a) that the additional 27 ha off-set must be identified, and the mechanisms required to secure the in-perpetuity conservation of any koala food tree planting(s) on that land be in place to the satisfaction of the Secretary prior to the issue of the first Construction Certificate and commencement of construction for either vegetation clearing or bulk earthworks.
- b) that the 27 ha of additional koala food tree planting will be undertaken in Cudgen Nature Reserve, or on other lands within a Koala Activity Precinct or Koala Linkage Precinct (as defined in the Tweed Coast Comprehensive Koala Plan of Management 2015) in the Tweed Shire Council local government area, or on the Kings Forest Site, as approved by the Secretary, or;
- c) all additional koala food tree planting will occur prior to the issue of a Construction Certificate;
- d) all additional koala food tree planting that will occur:
  - i. in Cudgen Nature Reserve must commence within 12 months of the OEH identifying the lands available for koala food tree planting;
  - ii. in an alternate offset location as approved by the Secretary pursuant to Condition 45 of this approval, planting must commence within 12 months of the Secretary approving an alternate offset location; and
- e) all off-site koala food tree planting will be finalised, unless otherwise approved by the Secretary within 2 years of planting commencing in accordance with d) above.

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### 3. Staging of Retained and Compensatory Koala Habitat

- a) Update the Staging Plan in Table 10 of the Koala Plan of Management dated 4 October 2018, to:
- i. ensure compensatory koala habitat is provided at a ratio of at least 1:8.6 for each stage of the project where koala habitat clearing is proposed;
  - ii. require koala food tree planting within the east-west corridor prior to the commencement of works within Stage 2; and
  - i. clarify all retained koala habitat will be managed in accordance with the approved Vegetation Management Plan following the commencement of the project, as per the requirements of Condition A13.

Note: 3. a) ii. above will require the Management Plan for the east-west corridor to be lodged and approved by the Secretary prior to the commencement of works within Stage 2.

### 4. Vegetation Management

- a) update Appendix 6 of the Koala Plan of Management dated 4 October 2018, to specify:
- i. the performance indicators, performance criteria and corrective actions only apply to the compensatory koala habitat (i.e. the koala offset plantings)
  - ii. the establishment and maintenance period performance criteria will be adopted for the following indicators: seedling survival, native canopy cover, weed presence, shrub and ground cover recruitment, and infrastructure (e.g. associated fencing and signage). In order to achieve an open forest structure, the following performance criteria will apply; establishment criteria will consist of 90% species survival and maintenance criteria will consist of 80% canopy cover, unless otherwise approved by the Secretary.
  - iii. the management measures required to ensure the removal of slash pine will not result in the clearing of retained koala habitat;
  - iv. the tree species selection and planting densities for all planting proposed within the off-site offset area; and
  - v. the details of any on-going monitoring and management measures, and the standards for achievement for all off-site koala food tree planting.

### 5. Bushfire Management

- a) specify site specific bushfire management measures, including the location of fire breaks and details of fuel reduction burns (i.e. frequency) required to facilitate the persistence of Koalas on-site.

### 6. Consistency with other Environmental Management Plans (EMP)

- a) specify the koala management measures that must be incorporated into the residual EMPs for the project; and
- b) specify the management of roaming domestic dogs must be included in the Feral Animal Management Plan.

### 7. Fencing and Koala Crossings

- a) the Fencing Plan(s) contained in the Koala Plan of Management dated 4 October 2018 must be revised to demonstrate temporary or permanent fencing will not result in:
- i. the clearing of any retained koala or Wallum Sedge Frog Habitat
  - ii. clearing within any heathland regeneration areas; or

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- iii. the creation of isolated patches of compensatory koala or Wallum Sedge Frog habitat, or heathland revegetation areas within the environmental protection zone or the ecological buffers;
- iv. barriers to wildlife movement, including koalas, during the construction period;
- v. barriers to wildlife movement, including koalas, over the proposed golf course (Precinct 14);
- b) amend the bridge abutments for the Blacks Creek underpass to provide a setback of 2 m either side of the creek bed to provide underpass opportunities for koalas.

**Note:** The Fencing Plan(s) may also need to be revised if the boundaries of the compensatory or retained koala habitat require revision due to the requirements of 45A 1.a) above.

## 8. Contingency and Offset Strategy

- a) Revise section 13.1 of the Koala Plan of Management dated 4 October 2018, to specify:

### Contingency Measures for the Establishment of the Compensatory Koala Habitat

- i. offsets will be provided on an area for area basis, for any compensatory koala habitat that does not meet the required performance targets within 7 years; and
- ii. identify the timing for providing any offsets required to achieve consistency with (i) above.
- iii. a bond or bank guarantee must be provided for the implementation of suitable conservation measures should the compensatory koala habitat not be provided in accordance with the requirements of the KPOM;
- iv. the sum of the bond or bank guarantee must be agreed by the Secretary prior to the issue of the first Construction Certificate permitting the clearing of vegetation on-site; and
- v. the bond or bank guarantee must be paid to and held by the Secretary from the issue of the first Construction Certificate permitting the clearing of vegetation, until 7 years after the Proponent has demonstrated to the Secretary that the compensatory habitat has been provided in accordance with the requirement of the KPOM;

## 9. Administrative Changes

- a) remove all references to a “horticultural or environmental specialist” confirming “substantial establishment” of compensatory koala habitat has occurred, and replace them with references to a “an independent restoration ecologist approved by the Secretary”;
- b) remove all references to the Proponent forfeiting the environmental bond where substantial establishment of the compensatory koala habitat is not achieved;
- c) ensure establishment and maintenance phase performance criteria are identified for all mitigation actions included in the updated Koala Plan of Management;
- d) remove all references to the Proponent nominating a representative to sit on the Tweed Coast Management Committee;
- e) confirm the Friends of the Koala are the relevant licenced koala care group in the Tweed local government area;
- f) specify corrective actions for implementation if the koala offset plantings do not initially survive on-site; and
- g) address the relevant administrative changes recommended in Tweed Shire Council’s submission dated 15 November 2018, in consultation with Council and to the satisfaction of the Secretary.
- h) Provide specifications for an off-leash dog exercise area which is to be located outside of environmental areas and ecological buffers and well away from existing or proposed koala habitat.

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10. Prior to the issue of any Construction Certificate, the Koala Plan of Management must be updated to be consistent with this Determination in consultation with Council and submitted to the Secretary for approval.

**45B Delivery of On-Site Compensatory Koala Habitat**

- (a) All on-site compensatory koala habitat must be provided at a ratio of 1:8.6 (i.e. for every hectare (ha) of koala habitat removed, 8.6 ha must be provided) over the life of the project; and
- (b) Prior to the issue of each Construction Certificate authorising the clearing of koala habitat, the Proponent shall provide evidence to the Certifying Authority that the compensatory koala habitat in the preceding stage meets the relevant establishment period completion criteria.

**Note:** Condition 45B only applies to each Construction Certificate issued after the first Construction Certificate authorising the clearing of koala habitat.

**45C Environmental Management Plan (EMP) Updates**

- 1. The Proponent must update the residual EMPs to incorporate the relevant koala management measures identified in the Koala Plan of Management approved by the Secretary under Condition 45A, prior to the issue of any Construction Certificate issued under Condition A18.

**Koala Infrastructure**

46.

- 1. Until final roads, fencing and underpasses are completed in accordance with Condition 46. 3. koala connectivity must be maintained at all times outside of daytime construction periods with details to be submitted to and approved by the Secretary.
- 2. Any roads through the environmental areas of the site must include the following, with details submitted to and approved by the Secretary:
  - a) fencing on both sides of the road of a design that will prevent the crossing by dogs and koalas;
  - b) any other temporary measures necessary to maintain habitat connectivity and minimise the risks to wildlife including koalas during construction.
- 3. **Koala infrastructure must comply with the following requirements** ~~Any roads through the environmental areas of the site must include:~~
  - ~~a) fencing on both sides of the road of a design that will prevent the crossing by dogs and koalas;~~
  - b) prior to the commencement of construction works in each precinct, the Proponent must install temporary or permanent fencing identified for that precinct in the updated Koala Plan of Management approved by the Secretary;**
  - c) prior to the issue a Subdivision Certificate for each precinct, the Proponent must install all permanent koala fencing and underpasses identified for that precinct in the updated Koala Plan of Management approved by the Secretary;**
  - ~~d) fauna underpasses installed at intervals sufficient to allow unimpeded movement by wildlife including koalas across roads. Such fencing and underpasses within Environmental Protection Areas are to be constructed prior to the commencement of bulk earthworks in the southern and/or western development precincts. **fauna underpasses must be constructed in the locations identified in the updated Koala Plan of Management approved by the Secretary. All fauna underpasses must be constructed concurrent to the road works approved under the Construction Certificates for precincts 2 – 5, 6, 11 and 12 - 14 of the project.**~~
- 4. ~~Precinct 1 and 5 Fauna exclusion fencing must be integrated with fencing at Tweed Coast Road. Such fencing is to be constructed at the completion of bulk earthworks.~~

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5. The design and precise location of fauna exclusion fencing must ensure that the buffer area available to fauna is maximised and makes provision for a functional maintenance zone each side of the fencing in order to allow sufficient room for replacement and maintenance of the infrastructure.
6. Precinct 1 fauna exclusion fencing should be sited at the outer edge of the 50m ecological buffer.
7. Signage shall be erected in strategic locations within Precincts 1, 2, 3, 4 and 5, at 100m intervals such as in the public open space areas within Precinct 5 and at fauna underpasses, advising residents that Koalas are active in the area and dogs should be kept on a leash at all times and encourage residents to keep dogs in enclosed yards between the hours of 6pm and 6am.
8. Erection of permanent vandal proof signs shall be erected at regular intervals to inform people about the purpose of the Koala exclusion fencing and the importance of maintaining the fence.

### Flora and Fauna Monitoring Report

47. The Flora and Fauna Monitoring Report (FFMR) should be revised to the satisfaction of OEH as follows:

- 1) The FFMR framework should be revised to ensure that monitoring of impacts in relation to threatened wetland bird species (black-necked stork, black bittern) takes suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek.
- 2) Table 4 – Threatened Fauna shall include the requirement to report fauna monitoring results to Council and OEH
- 3) The discussion of methodology in relation to monitoring of Koala should be more fully developed than that provided in Table 5 and Section 5.3, to the satisfaction of OEH
- 4) The monitoring of impacts in relation to threatened wetland bird species (Table 12) should take suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek, and be consistent with actions specified in the Drain Maintenance Management Plan and Threatened Species Management Plans.
- 5) The results of all monitoring of feral animals (Table 13) shall be additionally reported to OEH to assist in efforts to co-manage any feral animal problems on and adjacent to the site.
- 6) The final Flora and Fauna Monitoring Report shall be prepared in consultation with Council and submitted to the ~~Secretary~~ ~~Director-General~~ for approval within ~~12 months of this approval~~ **6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act** or prior to issue of any construction certificate, whichever occurs first.

### Summary of Management Plans

48. The Summary of Management Plans (SOMP) shall be revised to ensure consistency with all relevant management plans to the satisfaction of the ~~Secretary~~ ~~Director-General~~ within ~~12 months of this approval~~ **6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act** or prior to issue of any construction certificate, whichever occurs first.

### Environmental Audit Reports

49.

- ~~1) Within 3 months of the establishment phase performance criteria specified in all relevant Environmental Management Plans being met for each part of the land to be dedicated to Council in the future, the Proponent must submit to the Director-General for approval, an environmental audit ("Initial Audit") for each part of the Council Dedicated Land to confirm that the all establishment phase performance and any relevant maintenance phase criteria have been met. The Initial Audit(s) must be prepared by a suitably qualified independent environmental consultant, reviewed by Council and approved by the Director-General.~~
- ~~2) Within 3 months after each of the first and third anniversaries, and then subsequently every 2 years, of the Director General's approval of the Initial Audit(s) for each part of the Council Dedicated Land, the Proponent shall submit to Council for review, and the Director-General for approval, environmental audits prepared by a suitably qualified independent environmental consultant. Those environmental audits must review the condition of the Council Dedicated Land~~

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~~against the agreed maintenance phase performance criteria specified in each Environmental Management Plan until the affected lands have been transferred into public ownership. Environmental audit reports shall itemize all costs associated with the implementation, monitoring and reporting of all maintenance phase works and include audited financial statements.~~

- ~~3) In the event that an environmental audit carried out in accordance with this clause (48) indicates non-compliance with any of the relevant environmental management plans, approval for further stages of the development will not be granted.~~

#### **Environmental Audit Reports**

49.

- 1) Within 3 months of the establishment period, the proponent must conduct an environmental audit ("Initial Audit") for each part of the Potential Council Land to confirm that the establishment period and any relevant maintenance period criteria have been met. The Initial Audit(s) must be prepared by a suitably qualified independent environmental consultant, reviewed by Council and approved by the Secretary.
- 2) Within 3 months after each of the first and third anniversaries, and then subsequently every 2 years, of the Secretary's approval of the Initial Audit(s) for each part of the Potential Council Land, the Proponent shall submit to Council for review, and the Secretary for approval, environmental audits prepared by a suitably qualified independent environmental consultant. Those environmental audits must review the condition of the Potential Council Land against the agreed maintenance period performance criteria specified in each Environmental Management Plan until the affected lands have been transferred into public ownership. Environmental audit reports shall itemize all costs associated with the implementation, monitoring and reporting of all maintenance period works and include audited financial statements.
- 3) Within 6 weeks of completing this audit, or as otherwise agreed by the Secretary, the Proponent shall submit a copy of the audit report to the Secretary with a response to any recommendations contained in the audit report.
- 4) Within 3 months of submitting an audit report to the Secretary, the Proponent shall review and if necessary revise the relevant management plans and undertake additional mitigation measures as required under this approval to the satisfaction of the Secretary.

#### **Bond for Environmental Restoration Works**

50.

- ~~a) Prior to the issue of a construction certificate a cash bond or bank guarantee shall be lodged with Council to ensure that all the environmental management plans are implemented. The amount of such bond will be based on 135% of the cost of the environmental repair, enhancement and maintenance works for the establishment period specified in the approved environmental management plans or for a period of 5 years, whichever is longer. In this regard, two written quotes from suitably experienced and qualified contractors (to the satisfaction of the General Manager or delegate) must be submitted to Council which detail the cost of all works required.~~
- ~~b) The cash bond or bank guarantee will be refunded on the satisfactory completion of works providing acceptable arrangements have been made for the long term ownership and management of the relevant lands.~~
- ~~c) Monitoring of the effectiveness of the of the environmental repair, enhancement and maintenance works are to be undertaken in accordance with Condition 49 of the modified approval (08\_0194). Any supplementary or approved adaptive management works deemed necessary by the independent contractor shall be promptly undertaken once the need is identified.~~

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## **Bond for Environmental Restoration and Maintenance Works**

50.

- a) Prior to commencement of bulk earth works for each precinct a cash bond or bank guarantee shall be lodged with Council to ensure that the relevant environmental management plans for the associated Potential Council Land (as outlined by the Potential Council Land Plan detailed in condition B5 of the concept plan) is implemented. The amount of such bond will be based on 135% of the cost of the environmental works (repair and/or enhancement) for the associated precinct/Potential Council Land for the establishment period specified in the approved environmental management plans. Two written quotes from suitably experienced and qualified contractors must be submitted to the Council which detail the cost of all works required.

The cash bond or bank guarantee will be refunded, following the written approval from the Secretary of the environmental audit for the associated Potential Council Land as per condition 49(1).

- b) Once the establishment period has been completed, every 2 years the Proponent shall lodge a cash bond or bank guarantee with Council to ensure that the relevant environmental management plans for the Potential Council Land are implemented for that 2 year maintenance period. The amount of such bond will be based on 135% of the cost of the environmental maintenance works for the associated precinct/Potential Council Land (as outlined by the Potential Council Land Plan detailed in condition B5 of the concept plan) for that 2 year period, or until the completion criteria specified in the environmental management plans are met as required by Condition 39, and the land is transferred to public ownership. Two written quotes from suitably experienced and qualified contractors must be submitted to the Council which detail the cost of all works required in the relevant 2 year maintenance period.
- c) The cash bond or bank guarantee will be refunded at the end of each two year maintenance period subject to the Audit Report confirming that the requirements of the approved environmental management plans have been implemented by the Proponent.
- d) Monitoring of the effectiveness of the environmental works (repair, enhancement and/or maintenance) is to be undertaken in accordance with Condition 49. Any supplementary or approved adaptive management works deemed necessary by the independent contractor shall be promptly undertaken once the need is identified.
- e) Bi-annual bonding will no longer be required following the Proponent providing evidence to the Secretary that the final audit has been conducted in accordance with Condition 49 which demonstrates that the relevant works have been completed and written evidence is provided to the Secretary that the lands have been transferred into public ownership.

## **URBAN DESIGN**

### **Plan of Development for Precinct 5**

51. Revised plans of development for Precinct 5 are to be submitted to the ~~Secretary~~ **Director-General** for approval demonstrating full compliance with the Kings Forest Development Code.

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## **PRIOR TO COMMENCEMENT OF CONSTRUCTION WORKS**

### **Construction Environmental Management Plan**

52.

- 1) ~~Prior to the commencement of construction works for each stage of the project a Construction Environmental Management Plan (CEMP) shall be prepared that covers the area of works. The CEMP shall be consistent with the *Guideline for the Preparation of Environmental Management Plans* (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the project during construction. The CEMP shall include, but not be limited to:~~
  - a) ~~a description of all relevant activities to be undertaken on the site during construction (including an indicative timeline);~~
  - b) ~~a description of relevant environmental management objectives for the site;~~
  - c) ~~a detailed construction management strategy for each sequence / stage of the bulk earthworks;~~
  - d) ~~details of measures to be installed to separate construction areas from publicly accessible areas;~~
  - e) ~~statutory and other obligations that the Proponent is required to fulfil during construction including all relevant approvals, licences and consultations;~~
  - f) ~~a description of the roles and responsibilities for all relevant employees involved in construction~~
  - g) ~~hours of work (including standard hours of work for the Environmental Officer);~~
  - h) ~~a 24-hour contact telephone number shall be provided to all adjoining owners and occupants. Note: the nominated telephone number may contain provision for a voice message service outside of normal working hours.~~
  - i) ~~Measures to be implemented during bulk earthworks operations to ensure the existing 600mm trunk water main is protected~~
  - j) ~~Details of the Aboriginal Cultural Heritage Program for personnel and contractors (the program should be developed and implemented in collaboration with the local Aboriginal community)~~
  - k) ~~A subset of the following management plans:~~
    - i. ~~traffic and pedestrian management (see condition 55);~~
    - ii. ~~noise and vibration management (see condition 56);~~
    - iii. ~~construction waste management (including the proposed method and location of excess spoil from bulk earthworks) (see condition 57);~~
    - iv. ~~erosion and sediment control for the entire Kings Forest Estate (see condition 54);~~
    - v. ~~dust management;~~
  - l) ~~Note: other conditions in this approval may specify relevant objectives or requirements for or in addition to any of the matters listed directly above.~~
- 2) ~~Bulk earthworks are limited to one sequence area at a time, with the maximum exposed disturbed area (that has not been permanently vegetated) not exceeding a maximum of 5 hectares unless otherwise approved as part of this approval in Condition 9, at any time to reduce exposed areas.~~
- 3) ~~The CEMP shall be submitted for the approval of the certifying authority no later than one month prior to the commencement of construction, or within such period otherwise agreed by the Director-General. Notwithstanding, where construction work is to be undertaken in stages, the Proponent may, subject to the agreement of the Director-General, stage the submission of the CEMP consistent with the staging of activities relating to that work. The Proponent shall also forward copy of the CEMP to the Director-General and Council for information. Construction shall not commence until written approval has been received from the certifying authority.~~

- 1) Prior to the commencement of construction works for each stage of the project a Construction Environmental Management Plan (CEMP) shall be prepared that covers the area of works. The CEMP shall be consistent with the *Guideline for the Preparation of Environmental Management Plans* (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the project during construction. The CEMP shall include, but not be limited to:
  - a) a description of all relevant activities to be undertaken on the site during construction (including an indicative timeline);
  - b) a description of relevant environmental management objectives for the site;

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- c) a detailed construction management strategy for each sequence / stage of the bulk earthworks;
  - d) details of measures to be installed to separate construction areas from publicly accessible areas;
  - e) statutory and other obligations that the Proponent is required to fulfil during construction including all relevant approvals, licences and consultations;
  - f) a description of the roles and responsibilities for all relevant employees involved in construction
  - g) hours of work (including standard hours of work for the Environmental Officer);
  - h) a 24-hour contact telephone number shall be provided to all adjoining owners and occupants.  
Note: the nominated telephone number may contain provision for a voice message service outside of normal working hours.
  - i) Measures to be implemented during bulk earthworks operations to ensure the existing 600mm trunk water main is protected
  - j) Details of the Aboriginal Cultural Heritage Program for personnel and contractors (the program should be developed and implemented in collaboration with the local Aboriginal community)
  - k) A subset of the following management plans:
    - i. traffic and pedestrian management (see condition 55);
    - ii. noise and vibration management (see condition 56);
    - iii. construction waste management (including the proposed method and location of excess spoil from bulk earthworks) (see condition 57);
    - iv. erosion and sediment control for the entire Kings Forest Estate (see condition 54);
    - v. dust management to include:
      - identification of all dust emission/sources for each stage of the project;
      - identification of appropriate air quality goals/management criteria; and
      - details of all dust management and/or dust mitigation measures required to achieve the air quality goals/criteria for the construction works.
  - l) Note: other conditions in this approval may specify relevant objectives or requirements for or in addition to any of the matters listed directly above.
- 2) Bulk earthworks are limited to one sequence area at a time, with the maximum exposed disturbed area (that has not been permanently vegetated) not exceeding a maximum of 5 hectares unless otherwise approved as part of this approval in Condition 9, at any time to reduce exposed areas.
- 3) The CEMP shall be prepared in consultation with the Council and submitted for the approval by the Secretary no later than one month prior to the commencement of construction works. Notwithstanding, where construction work is to be undertaken in stages, the Proponent may, subject to the agreement of the Secretary, stage the submission of the CEMP consistent with the staging of activities relating to that work. The Proponent shall also forward copy of the CEMP to the Secretary and Council for information. Construction shall not commence until written approval has been received from the certifying authority.

### **Construction Management Measures**

53. All measures contained in the Construction Environmental Management Plan under Condition 52 and the Sediment and Erosion Control Plan under Condition 54 are to be implemented prior to the commencement of construction and be maintained throughout construction. A copy of the approved Plans shall be maintained on site and made available upon request.

### **Sediment and Erosion Control Plan**

54.

- 1) The Proponent shall engage a suitably qualified person to prepare a detailed Sediment and Erosion Control Plan for the whole site prepared in accordance with Section D7.07 of Development Design Specification D7 - Stormwater Quality. Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with D7 and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". The Plan must be prepared in consultation with and to the satisfaction of the NSW Office of Water that addresses the following (at a minimum):

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- a) Management of stormwater runoff during bulk earthworks, civil construction, landform stabilisation, on-maintenance and operational phases for all stages of the project.
  - b) Special consideration of measures required to protect the SEPP14 wetlands, particularly during construction of the two access roads to the southern residential precincts.
  - c) Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater–Soils & Construction Volume 1* (2004) by Landcom.
- 2) The Plan must be submitted to the Certifying Authority prior to the issue of the Construction Certificate for Stage 1 bulk earthworks.
- 3) Staged construction and establishment of sediment control facilities and water quality treatment shall be in accordance with Water By Design - Technical Design Guidelines (Chapter 5.5). This is in order to ensure the integrity and durability of the treatment devices in the early stages of the development,

#### **Construction Traffic and Pedestrian Management Plan**

55.

- 1) A Construction Traffic and Pedestrian Management Plan in accordance with AS1742 Set-2010 and RMS's publication *Traffic Control at Works Sites* Version 4 shall be prepared by an RTA accredited person(s), and shall be submitted for approval as part of the CEMP. The Plan shall address, but not be limited to, the following matters:
- a) ingress and egress of vehicles to the site and details of how construction of project infrastructure will be managed in proximity to local and regional roads;
  - b) loading and unloading, including construction zones;
  - c) predicted traffic volumes and measures to ensure traffic volume, acoustic and amenity impacts along construction vehicle routes are minimised;
  - d) types and routes including traffic routes for heavy vehicles, and any necessary route or timing restrictions for oversized loads;
  - e) pedestrian and traffic management methods (including site security);
  - f) Washing facilities for trucks on the site (including a vehicle shakedown area);
  - g) Hours of access to the site; and
  - h) evidence that all statutory responsibilities with regard to road traffic impacts have been complied with.

#### **Noise and Vibration Management Plan**

56.

- 1) A Noise and Vibration Management Plan to detail measures to minimise noise emissions associated with the construction of the project shall be submitted for approval as part of the CEMP. This plan shall be prepared in accordance with the *Interim Construction Noise Guidelines* (DECC, July 2009) and shall include, but not necessarily be limited to:
- a) identification of all major sources of noise that may be emitted as a result of the construction of the project;
  - b) identification of nearby residents and other sensitive land uses;
  - c) specification of appropriate noise and vibration criteria as it applies to a particular activity;
  - d) identification and implementation of best practice management techniques for minimisation of noise and vibration emissions;
  - e) procedures for the monitoring of noise emissions and vibrations; and
  - f) a description of the procedures to be undertaken if any non-compliance is detected.

#### **Construction Waste Management Plan**

57.

- 1) A Construction Waste Management Plan prepared by a suitably qualified person in consultation with the Council, shall be submitted for approval as part of the CEMP. The Plan shall address, but not be limited to the following matters:
- a) Recycling of demolition materials including concrete;

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- b) Removal of hazardous materials and disposal at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works
  - c) Identification of sources of waste
  - d) Description of measures to control and manage any waste
  - e) Identification of any monitoring locations and procedures for monitoring
  - f) Licensing requirements
  - g) Measures to maximise onsite recycling
  - h) Locations of waste storage
- 2) The Proponent shall submit a copy of the Plan to council, prior to commencement of work.

### **Construction Waste Management**

58.

- 1) The Proponent shall not cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing, or disposal on the site, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*, if such a licence is required in relation to that waste.
- 2) Details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the PCA prior to the removal of any hazardous materials.
- 3) Storage of waste shall occur within the boundaries of the site, by way of a screened area of silt stop fabric, shade cloth or waste disposal bin; provided to council specifications (as in force at the date of this approval).
- 4) Any waste materials removed from the site shall only be directed to a waste management facility lawfully permitted to accept the materials.
- 5) The Proponent shall maximise the treatment, reuse and/or recycling on the site of any excavated soils, slurries, dusts, aggregate and sludges associated with the project, to minimise the need for treatment or disposal of those materials outside the site.

### **Pavement Design**

59.

- 1) Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating:
  - a. That the pavement has been designed in accordance with council's Development Design Specification, D2 (as in force at the date of this approval).
  - b. That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255 (as in force at the date of this approval).
  - c. That site fill areas have been compacted to the specified standard.
  - d. That supervision of bulk earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-2007.
- 2) During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
  - a. That the pavement layers have been compacted in accordance with council's Development Design and Construction Specifications (as in force at the date of this approval).
  - b. That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.
- 3) Provision of temporary turning areas and associated signage for refuse vehicles is to be provided at the end of roads which will be extended in subsequent stages. The temporary turning areas shall be constructed with a minimum 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.

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### Excavation Works

60. The PCA and council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

### Geotechnical Compliance

61. Each stage shall be preceded by an endorsement of detailed earthworks design plans by a practicing geotechnical engineer to certify compliance of the plans and implementation strategy with the conclusions and recommendations of the Geotechnical Report prepared by Cardno Bowler titled Geotechnical Investigation proposed residential subdivision Depot Road, Kings Forest dated 7 April 2011 (Appendix Y of the EA).

### Retaining Walls

62. Prior to commencement of construction the PCA is to be provided with a certificate of adequacy of design, signed by a practicing Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by geotechnical assessment of the founding material.

### SEPP14 Wetlands

63. Prior to the commencement of works for any stage of the project, ~~the SEPP14 wetland the environmental protection zones and buffers~~ and Cudgen Nature Reserve boundaries must be clearly delineated on-site to prevent unauthorised access to these areas. ~~Staging Plans shall be submitted to the satisfaction of the Secretary~~ ~~Director-General~~, prior to the issue of a Construction Certificate for bulk earthworks within each relevant Precinct, showing the area of works to be undertaken and with the boundaries of adjoining environmental protection zones and buffers being clearly delineated within each Precinct. 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.

### Exclusion Fencing and Underpasses

64. ~~Fauna exclusion fencing and underpasses (including any temporary fencing and underpasses) for roads traversing Environmental Protection Areas are to be constructed prior to the commencement of bulk earthworks in any of the southern and/or western development precincts.~~

Prior to the commencement of construction works in each precinct where roads traverse the Environmental Protection Areas, the Proponent must install all temporary and/or permanent fauna exclusion fencing identified for that precinct in the updated Koala Plan of Management approved by the Secretary.

All fauna underpasses on roads traversing the Environmental Protection Areas must be constructed concurrent to the road works approved under the Construction Certificates for precincts 2 – 5, 6, 11 and 12 - 14 of the project.

### Existing Services

65. The Proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the PCA advised of its location and depth prior to commencing works for each stage of the subdivision and ensure there shall be no conflict between the project and existing infrastructure prior to start of any works.

### Drawing Reticulated Water

66. Where water is to be drawn from Councils reticulated system, the Proponent shall:
- 1) Make application for the hire of a council metered standpipe including council's nomination of point of extraction.
  - 2) Where a current standpipe approval has been issued, application must be made for council's nomination of a point of extraction specific to the development.
  - 3) Payment of relevant fees in accordance with council's adopted fees and charges.

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## **Public Risk Liability**

67.

- 1) The Proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.
- 2) Where the construction work is on or adjacent to public roads, parks or drainage reserves the Proponent shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

## **Site Safety**

68. Prior to the commencement of works, the Proponent shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with relevant guidelines and legislation.

## **Aboriginal Cultural Heritage Program**

69. Records are to be kept of which staff/contractors were inducted under the Aboriginal Cultural Heritage Program and when for the duration of the project.

## **Community Liaison**

70.

- 1) Details of the contact person and telephone number shall be clearly displayed at the site entry.
- 2) A sign is to be erected at the entry of the site to clearly advise the community liaison officer's details and contact number.
- 3) These details are to be documented in the Construction Environmental Management Plan.

## **Environmental and Community Liaison Officer(s)**

71.

- 1) An appropriately qualified Environmental Officer(s), that is to receive the prior approval of the department, must be engaged by the Proponent for the duration of works. Their role shall be to oversee environmental compliance of the project until completion conditions have been satisfied.
- 2) A community liaison officer shall be available during construction works.
- 3) The Environmental Officer(s) may also act as the community liaison officer required by 2) above, to consult with potentially affected property owners and the department before and during construction works and shall respond to complaints of an environmental impact nature.
- 4) The Environmental Officer(s) must submit a report to the ~~Secretary~~ Director-General in accordance with reporting timetables in the management plans and within 3 weeks of the completion of each earthworks stage detailing the project's compliance with relevant conditions, management plans and progress on-site.
- 5) A sign is to be erected at the entry of the site to clearly advise the environmental/community liaison officer's details and contact number. These details are to be documented in the CEMP required by Condition 52.

## **Implementation of Environmental Management Plans**

72.

- 1) Evidence of commencement of implementation of all Environmental Management Plans shall be provided to the ~~Secretary~~ Director-General prior to commencement of bulk earthworks.

## **DURING CONSTRUCTION**

### **Approved Plans to be On-site**

73. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

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## Hours of Work

74.

- 1) The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:
  - a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
  - b) between 8:00 am and 5:00 pm, Saturdays;
  - c) no work on Sundays and public holidays.
- 2) Works may be undertaken outside these hours where:
  - a) the delivery of materials is required outside these hours by the Police or other authorities;
  - b) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
  - c) variation is approved in advance in writing by the ~~Secretary~~ ~~Director General~~ or his nominee.
  - d) Residents likely to be affected by the works are notified in writing of the timing and duration of these works at least 48 hours prior to the commencement of works (with the exception of emergency work).
- 3) The Proponent is responsible to instruct and control subcontractors regarding hours of work.

## Complaints Procedure

75.

- 1) At the commencement of construction the Proponent shall ensure that the following are available for community complaints during construction:
  - a) A 24 hour telephone number on which complaints about construction activities at the site may be registered.
  - b) A postal address to which written complaints may be sent.
  - c) An email address to which electronic complaints may be transmitted.
  - d) Name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours.
  - e) Name, address and telephone number of the Project Manager and PCA
  - f) The telephone number, the postal address, email address, the name of the site/project manager and the approved hours of work, shall be displayed on a sign near the entrance to the site, in a position that is clearly visible to the public.
- 2) The Proponent shall record details of all complaints received through the means listed under this condition of this approval in an up-to-date Complaints Register.
- 3) The Proponent shall provide an initial response to any complaints made in relation to the project during construction within 48 hours of the complaint being made. The response and any subsequent action taken shall be recorded in the Complaints Register.

## Incident Reporting

76. Within 24 hours of detecting any incidents during construction that causes (or may cause) significant harm to the environment, the Proponent shall notify the Council and other relevant agencies of the incident and identify the following:

- 1) Describe the date, time, and nature of the incident.
- 2) Identify the cause (or likely cause) of the incident.
- 3) Describe what action has been taken to date.
- 4) Describe any proposed measures to address the incident.

## Access to SEPP14 Wetland Areas and Cudgen Nature Reserve

77.

- 1) No vehicles, machinery or other equipment should be stored, driven or parked at any time within the SEPP14 wetlands or the Cudgen Nature Reserve.
- 2) No access is allowed to the SEPP14 wetlands or the Cudgen Nature Reserve during the construction period for any stage of the project other than for those works approved by this project application.

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## **Erosion and Sediment Control**

78.

- 1) All erosion and sediment control measures are to be effectively implemented and maintained in accordance with the Sediment and Erosion Control Plan as required by condition 54.
- 2) All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 3) After each storm event a suitably qualified person shall assess the adequacy of the erosion control measures and make good any damaged erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

## **Construction Noise Management**

79.

- 1) Construction noise objectives shall be consistent with the requirements of the DECC *Interim Construction Noise Guideline (July 2009)*
- 2) Background noise levels are those identified in Environmental Assessment or otherwise identified. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
- 3) Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the Construction Environmental Management Plan as required by condition 52.
- 4) If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.
- 5) The Proponent shall schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours:
  - a) 9.00 am to 12.00 pm, Monday to Friday;
  - b) 2.00 pm to 5.00 pm Monday to Friday; and
  - c) 9.00 am to 12.00 pm, Saturday
  - d) No blasting on Sundays or public holidays
- 6) Wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where outlined in the Construction Environmental Management Plan.
- 7) Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the Subject Site.

## **Vibration Criteria**

80.

- 1) Vibration caused by construction at any residence or structure outside the Subject Site must be limited to:
  - a) for structural damage vibration, *German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures*; and
  - b) for human exposure to vibration, the evaluation criteria presented in the *Technical Basis for Guidelines to Minimise Annoyance Due to Blasting Overpressure and Ground Vibration (ANZEC 1990)*
- 2) Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.
- 3) These limits apply unless otherwise outlined in the approved CEMP.

## **Use of Crushing Plant Machinery**

81. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is not approved. Separate approval must be obtained for any such use on the site.

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### **Dust Mitigation**

82. Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction for each stage of the project. In particular, the following measures must be adopted:

- a) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions.
- b) Earthworks and scheduling activities shall be managed to coincide with the next stage of project to minimise the amount of time the site is left cut or exposed.
- c) All materials shall be stored or stockpiled at the best locations.
- d) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run off occurs.
- e) All vehicles carrying soil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material.
- f) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive through washing bays.
- g) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- h) Cleaning of footpaths and roadways shall be carried out regularly.
- i) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydro mulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- j) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s(54 km/h). The applicant shall be responsible for providing a calibrated wind meter on site to monitor wind speeds. The wind meter must be located so that it is easily accessed by relevant supervisors and Council Officers. This data must be able to be produced to Council on request.

### **Construction Waste Management**

83. Management of construction waste must be undertaken in accordance with the approved Construction Waste Management Plan required by Condition 57.

### **Damage**

84. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the project shall be repaired in accordance with Councils Development Design and Construction Specifications (as in force at the date of this approval) prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

### **Stormwater and Drainage**

85.

- 1) Inter allotment drainage shall be provided to all lots where roof water for future dwellings cannot be conveyed to the street gutter by gravitational means.
- 2) All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Council's adopted Design and Construction Specification (as in force at the date of this approval).

### **Disposal of Seepage and Stormwater**

86. Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless it meets the controlled discharge water quality criteria specified in Condition 21.

### **Sewer pump station**

87.

- 1) An accurate plan of the sewage pumping station site shall be submitted to council 60 days prior to lodgement of an application for a Subdivision Certificate to allow the land to be classified.

Note: The *Environmental Planning and Assessment Act, 1979* (as amended) makes no provision for works under the *Water Supplies Authorities Act, 1987* to be certified by an Accredited Certifier.

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## Compulsory Inspections

88.

- 1) Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with council's Development Control Plan, Part A5 - Subdivision Manual, Appendix D (as in force at the date of this approval). Inspection fees are based on the rates contained in council's current Fees and Charges:

### **Water Reticulation, Sewer Reticulation, Drainage**

- a) Excavation
- b) Bedding
- c) Laying/jointing
- d) Manholes/pits
- e) Backfilling
- f) Permanent erosion and sedimentation control measures
- g) Drainage channels
- h) Final inspection - on maintenance
- i) Off maintenance

### **Sewer Pump Station**

- a) Excavation
- b) Formwork/reinforcement
- c) Hydraulics
- d) Mechanical/electrical
- e) Commissioning - on maintenance
- f) Off maintenance

### **Stormwater Quality Control Devices (other than proprietary devices)**

For detail refer to Water By Design – Technical Guidelines

- a) Earthworks and filter media
- b) Structural components
- c) Operational establishment
- d) Mechanical/electrical
- e) Commissioning – on maintenance
- f) Off maintenance

- 2) Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Proponent's Supervising Consulting Engineer. The EP&A Act makes no provision for works under the *Water Management Act 2000* to be certified by an "accredited certifier". The fee for the above mentioned inspections shall be invoiced upon completion of all civil works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.
- 3) The PCA shall be given a minimum 24 hours notice or as agreed with the PCA, to carry out the following inspections:

### **Roadworks**

- a) Pre-construction commencement erosion and sedimentation control measures
- b) Completion of earthworks
- c) Excavation of subgrade
- d) Pavement - sub-base
- e) Pavement - pre kerb
- f) Pavement - pre seal
- g) Pathways, footways, bikeways - formwork/reinforcement
- h) Final inspections - on maintenance
- i) Off Maintenance inspection

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## Street Names

89.

- 1) The Proponent shall obtain the written approval of council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.
- 2) The application shall demonstrate compliance with council's Road Naming Policy.

## Aboriginal Cultural Heritage

90. Aboriginal Cultural Heritage matters during construction are to be addressed in the following manner:

- 1) The Proponent must continue to consult with and involve all the registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values and implementation of the approved Cultural Heritage Management Plan. Evidence of this consultation must be collated and provided to the approval authority upon request.
- 2) The Proponent is to provide fair and reasonable opportunities for the registered Aboriginal stakeholders to monitor any initial ground disturbance works associated with the areas identified as the 'Monitoring Areas' in the Kings Forest Aboriginal Monitoring Plan (undated). In the event that additional Aboriginal objects are uncovered during the monitoring program, the objects are to be recorded and managed in accordance with the requirements of sections 85A and 89A of the *National Parks and Wildlife Act 1974*.
- 3) In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the object(s). The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by OEH) and the management outcome for the site included in the information provided to the AHIMS. The Proponent will consult with the Aboriginal community representatives the archaeologist and OEH to develop and implement management strategies for all objects/sites.
- 4) If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are contacted immediately. No action is to be undertaken until police provide written notification to the Proponent. If the skeletal remains are identified as Aboriginal, the Proponent must contact OEH's Enviroline on 131555 and representatives of the local Aboriginal community. No works are to continue until OEH provide written notification to the Proponent.
- 5) All reasonable efforts must be made to avoid impacts to Aboriginal cultural heritage at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the local Aboriginal community and OEH. All sites impacted must have an OEH Aboriginal Site Impact Recording (ASIR) form completed and be submitted to OEH's AHIMS Registrar within 3 months of completion of these works.

## Earthworks & Fill

91.

- 1) Once the Construction Certificate has been issued for each stage of the subdivision, any change in the source of fill must be notified to the Certifying Authority and approval obtained to the new source prior to the import of any of the material. A report from a practicing geotechnical engineer certifying that the new source of material is suitable for the intended purpose be provided. The report must include any conditions on the use of the material and a report from a registered NATA laboratory on the soil properties of the fill material including contamination.
- 2) During construction, the Proponent shall employ a suitably qualified geotechnical practitioner to identify and stockpile suitable fill materials on site. Any fill on the sites to be placed in accordance with AS 3798 *Guidelines on Earthworks for Commercial and Residential Developments*. Unless sourced from within the site, only 'Virgin Excavated Natural Material' (VENM) shall be imported to the site. No fill or retaining walls shall be located within any drainage easement located within the site.
- 3) During filling operations
  - a. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned;
  - b. Fill adjacent to these boundaries is to be placed mechanically;

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- c. All fill and cut batters shall be contained wholly within the subject land; and
- d. All topsoil to be re-spread and the site to be grassed and landscaped during battered areas.
- 4) No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of council.
- 5) In the event that poor soils are encountered during bulk earthworks activities, bulk earthworks may be undertaken in any sequence or phase (other than that as generally described in Condition A6 of this approval) only for the purpose of the following:
  - a. Temporary placing of material to enable the material to be mixed, dried or the like
  - b. Temporary stockpiling of material to enable the area from which the material is obtained to be mixed, dried or the like, providing that:
- 6) The areas used for temporary placing and stockpiling referred to in 5) above must not exceed 5ha at any one time. The areas are to be vegetated immediately after the material is removed.
- 7) The need for such activity as described in 5) above, shall be confirmed by a suitably qualified geotechnical practitioner and must not proceed without the prior written approval of the ~~Secretary~~ ~~Director General~~.

#### **Surrounding Road Carriageways**

- 92. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. 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/Occupation Certificate.

#### **Depot Road**

- 93. Uninterrupted all weather vehicular access to the Depot Road sports fields site shall be maintained for the duration of works.

#### **Burning of vegetation**

- 94. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited.

#### **Acid Sulfate Soils**

- 95. All works that involve disturbance of soils shall be carried out in accordance with the approved Acid Sulfate Management Plan, as required by Condition 17.

#### **Fauna Spotter-Catcher**

- 96. A registered Fauna spotter-catcher is to be present during all vegetation clearing works to ensure safe dispersal of fauna as required by the Environmental Management Plans.

#### **Protection of the Environment**

- 97. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction and operation of the development.

#### **Monitoring**

- 98. All monitoring shall be undertaken in accordance with the site Environmental Management Plans, including, but not limited to, the following:
  - 1) Flora and fauna
  - 2) Groundwater quality and levels
  - 3) Groundwater seepage
  - 4) Surface water quality
  - 5) Sediment and erosion control
  - 6) Acid sulfate soils
  - 7) Dust monitoring (as required)

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## **PART THREE – CONSTRUCTION OF RURAL SUPPLIES BUILDING (PRECINCT 1)**

### **PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

#### **Amendments to Design of Rural Supplies Building**

99.

- ~~1) The design of the rural supplies building and landscaping in the north of Precinct 1 shall be modified to provide a 10m wide vegetated buffer generally in accordance with Appendix 2 of the Planning Guidelines: Separating Agricultural and Residential Land Uses (Qld Government August 1997) and Section A5 of Tweed Shire Council's DCP 2008, or any other such arrangement to the satisfaction of the Department of Primary Industries, to minimise any future potential land use conflict with agricultural land to the north of the site. Screening by physical means other than vegetation is not acceptable.~~
- ~~2) The amended design shall be submitted to the Secretary Director-General for approval within 6 months 24 months of the date of this approval.~~

#### **Use of Rural Supplies Building in Precinct 1**

100. ~~Final details regarding the proposed first use, hours of operation, car parking and service vehicle arrangements, access, signage and external storage for the building in Precinct 1 shall be submitted to the Secretary Director-General for approval prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.~~

#### **Bushfire Management – Design and Construction**

101. ~~The design of the rural supplies building shall comply with the following:~~
- ~~b. Construction of the building shall comply with Section 3 and Section 7 (BAL 29) of Australian Standard AS 3959-2009 Construction of buildings in bushfire-prone areas and section A3.7 of Addendum: Appendix 3 Planning for Bush Fire Protection.~~
  - ~~c. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.~~
  - ~~d. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.~~

#### **Details of Materials, Colours and Finishes**

102. ~~Final design details of the proposed external materials and finishes of the building in Precinct 1, including schedules and a sample board of materials and colours (including an A3 photographic reproduction), shall be submitted to and approved by the department prior to the issue of a construction certificate for the construction of any building in Precinct 1.~~

#### **Reflectivity**

103. ~~The visible light reflectivity from building materials used on the facades of the buildings in Precinct 1 shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.~~

#### **Outdoor Lighting**

104. ~~All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.~~

#### **Access for People with Disabilities**

105. ~~The building in Precinct 1 must be designed and constructed to provide access and facilities for people with a disability in accordance with the Building Code of Australia. The Certifying Authority must ensure that evidence of compliance with this condition from an appropriately qualified person~~

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is provided and that the requirements are referenced on the Construction Certificate drawings for any building in Precinct 1.

### **Parking Spaces**

106. ~~The number of car spaces, bicycle spaces and loading bays to be provided for the rural supplies development in Precinct 1 shall comply with the requirements of Section A2—Site Access and Parking Code of the Tweed Shire Council Development Control Plan 2008 (as in force at the date of this approval).~~

### **Carpark and Service Vehicle Layout**

107. ~~1) All vehicles should enter and leave the rural supplies site in a forward direction.  
2) Car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage.  
3) Appropriate pedestrian advisory signs are to be provided at the egress from the car park.  
4) All works/regulatory signposting associated with the rural supplies development shall be at no cost to the relevant roads authority.  
5) The swept path of the longest vehicle (including garbage trucks) entering and exiting the site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS.  
6) Details demonstrating compliance with the requirements specified above shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a construction certificate for the construction of any building in Precinct 1.~~

### **Mechanical Ventilation**

108. ~~All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environmental protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a construction certificate for the construction of any building in Precinct 1.~~

### **Storage and Handling of Waste**

109. ~~1) An appropriate area shall be provided for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises, outside of the ecological buffer zone and asset protection zone. The location and design of such an area shall be in accordance with the requirements of *Tweed Shire Council Development Control Plan 2008* (as in force at the date of this approval).~~

### **Sewer and Water Reticulation**

110. ~~The Proponent must prepare a detailed network analysis and plans for water and sewer reticulation infrastructure prior to the issue of a construction certificate for the construction of any building in Precinct 1. The analysis must be prepared to the satisfaction of council.~~

### **Certification**

111. ~~1) Proposed earthworks shall be carried out in accordance with AS 3798, *Guidelines on Earthworks for Commercial and Residential Developments*.  
2) All earthworks shall have a finished grade of at least 1% so that the site drains to approved permanent drainage systems.  
3) The earthworks shall be monitored by a Registered Geotechnical Testing Consultant in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the earthworks comply with AS3798 and that the development is suitable for its intended use shall be submitted to the PCA upon completion.~~

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## **Stormwater Quality**

112. ~~The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils Development Design Specification D7 – Stormwater Quality.~~

~~Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 – Stormwater Quality. The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.~~

## **Erosion and Sediment Control**

113.

~~1) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of Development Design Specification D7 – Stormwater Quality.~~

~~2) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with Tweed Shire Council Development Design Specification D7 – Stormwater Quality and its Annexure A – “Code of Practice for Soil and Water Management on Construction Works”.~~

### **Advisory Note:**

~~A construction certificate application for works that involve any of the following:~~

- ~~• connection of a private stormwater drain to a public stormwater drain~~
- ~~• installation of stormwater quality control devices~~
- ~~• erosion and sediment control works~~

~~Shall not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.~~

~~Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.~~

~~Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.~~

## **DURING CONSTRUCTION OF PRECINCT 1**

### **Erosion and Sediment Control**

114.

- ~~1) Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required (if subdivision include to the satisfaction of the Principal Certifying Authority). These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.~~
- ~~2) In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.~~
- ~~3) This sign is to remain in position for the duration of the project.~~

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### **Bushfire Management**

115. ~~At the commencement of building works and in perpetuity, the property to the east, south-east and south of the building in Precinct 1 for a distance of not less than 21 metres, and to the property boundary north and west of the proposed building, shall be managed as an inner protection area (IPA) as outlined in 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*.~~

### **Construction Management**

116. ~~In addition to condition 115 above, conditions 73 to 92 and 94 to 98 of this project approval (08\_0194) must be complied with during the construction of the rural supplies building in Precinct 1.~~

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE FOR RURAL SUPPLIES BUILDING**

#### **Road Damage**

117. ~~The cost of repairing any damage caused to council or other Public Authority's assets in the vicinity of Precinct 1 as a result of construction works associated with the rural supplies development is to be met in full by the Proponent prior to the issue of any Occupation Certificate for the building in Precinct 1.~~

#### **Registration of Easements**

118. ~~1) Prior to the issue of any Occupation Certificate, the Proponent shall provide to the Certifying Authority evidence that all matters required to be registered on title including easements and Restrictions as to User under Section 88B of the *Conveyancing Act 1919* required by this approval, have been lodged for registration or registered at the NSW Land and Property Information.~~  
~~2) 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*.~~  
~~3) Easements for sewer, water supply and drainage over all public services/infrastructure on private property.~~  
~~4) Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.~~  
~~5) 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.~~

#### **Structural Inspection Certificate**

119. ~~A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the rural supplies building. A copy of the certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the department after:~~  
~~1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings; and,~~  
~~2) The drawings listed on the inspection certificate have been checked with those listed on the final design certificate/s.~~

#### **Compliance with Bushfire Requirements**

120. ~~Prior to the release of any Occupation Certificate for the project, a report is to be prepared by a BPAD Certified bushfire consultant that certifies the following:~~  
~~1) Compliance with the RFS requirements in Condition 101~~  
~~2) Public road access complies with section 4.1.3 (1) of *Planning for Bush Fire Protection 2006*~~  
~~3) Fire trails comply with section 4.1.3 (3) of *Planning for Bush Fire Protection 2006*~~  
~~4) Asset Protection Zones comply with 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*~~

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- ~~5) Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*~~
- ~~6) Internal roads shall comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*~~
- ~~7) Arrangements for bushfire emergency and evacuation have been detailed within a Bushfire Emergency / Evacuation Plan and comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*.~~

#### **Koala Plan of Management**

- ~~121. All exclusion fencing required by the Koala Plan of Management dated October 2012 as relevant to Precinct 1, must be constructed and functional prior to the release of an occupation certificate for any building in Precinct 1. Evidence is to be obtained from a suitably qualified ecological professional that certifies management measures have been constructed in accordance with the approved Koala Plan of Management.~~

#### **Landscaping**

- ~~122. Upon completion of landscape works, and prior to the commencement of use, evidence is to be obtained from a suitably qualified person, and submitted to and approved by the PCA that certifies landscaping has been completed in accordance with the approved Landscape Plan. The Proponent shall also ensure that this landscaping is maintained in accordance with the approval and in a healthy and vigorous state prior to any handover to council.~~

#### **External Lighting**

- ~~123.~~
  - ~~1) The Proponent shall submit to the Certifying Authority evidence from an independent qualified practitioner demonstrating compliance with condition 123.~~
  - ~~2) All externally mounted artificial lighting, including security lighting, is to be shielded where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.~~

#### **Integrated Water Cycle Management**

- ~~124. The Proponent shall provide a Works as Executed Plan to Council that shows relevant construction works including all Water Sensitive and Urban Design measures as required under the approved Integrated Water Cycle Management Plan submitted in accordance with condition 19 have been satisfactorily completed. The Plan shall be endorsed by a Registered Surveyor or Designing Engineer.~~

#### **Utilities – Water, Sewer, Telephone and Electricity Services**

- ~~125.~~
  - ~~1) The rural supplies building is to be connected to all available services (water, sewer, electricity and telephone). A clearance letter from each authority is required prior to issue of an Occupation Certificate. Such connections, and any extension of services required to the rural supplies development, are to be carried out at full cost to the Proponent.~~

#### **DURING OPERATIONS**

##### **Loading and Unloading**

- ~~126. All loading and unloading of service vehicles in connection with the use of the rural supplies building shall be carried out wholly within the Precinct 1 site at all times.~~

##### **Unobstructed Driveways and Parking Areas**

- ~~127. All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the rural supplies building.~~

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## **Operations**

128. ~~The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.~~

## **Noise**

129. ~~1) The LAeq, 15 min noise level emitted from the premises shall not exceed the project specific noise level, calculated in accordance with the NSW Industrial Noise Policy (EPA, January 2000).~~  
~~2) All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive.~~

## **Bushfire Emergency / Evacuation Plan**

130. ~~Arrangements for bushfire emergency and evacuation are to be maintained in accordance with the Bushfire Emergency / Evacuation Plan, as required by Condition 120, and 'Planning for Bush Fire Protection 2006'. All continuing actions which may be required (e.g. training of staff, signage requirements) shall be implemented.~~

## **Impacts on SEPP14 Wetland**

131. ~~Operation of the building shall not damage or interfere in any way with the SEPP14 wetlands.~~

## **PART THREE – CONSTRUCTION OF SERVICE STATION/FOOD AND DRINK PREMISES (PRECINCT 1)**

99. The service station/food and drink premises must be constructed and operated in accordance with the conditions contained in Part One, Part Two, Part Three and Part Four of this consent with the exception of Condition 74 (1).

## **PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE (PRECINCT 1)**

### **Bushfire Management - Design and Construction**

- 100.
- 1) The design of the service station/food and drink premises must comply with the following:
    - a) construction of the service station / food and drink premises must be in accordance with Section 3 and Section 7 (BAL 29) of Australian Standard AS3959-2009 Construction of buildings in bushfire-prone areas and section A3.7 of *Addendum: Appendix 3 Planning for Bush Fire Protection 2006*, with the exception of the western elevation (south of the service station shop) which must be constructed in accordance with Section 3 and Section 6 (BAL 19) of Australian Standard AS3959-2009 Construction of buildings in bushfire-prone areas and section A3.7 of *Addendum: Appendix 3 Planning for Bush Fire Protection 2006*.
    - b) landscaping of the site must comply with the principles of Appendix 5 of *Planning for Bush Fire Protection 2006*;
    - c) water, electricity and gas must comply with the requirements of section 4.1.3 of *Planning for Bush Fire Protection 2006*;
    - d) roofing must be gutterless or guttering and valleys must be screened to prevent the buildup of flammable material. Any materials used must be non-combustible; and
    - e) above-ground infrastructure associated with the service station (including the above-ground ventilation infrastructure, tank filling points and fill points), must be located a minimum of 7 metres from the vegetation buffer and be designed to withstand the calculated radiant heat exposure.

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### Details of Materials, Colours and Finishes

101. Final design details of the proposed external materials and finishes of the building in Precinct 1, including schedules and a sample board of materials and colours (including an A3 photographic reproduction), must be submitted to and approved by the Secretary prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.

### Reflectivity

102. The visible light reflectivity from building materials used on the facades of the buildings in Precinct 1 must not exceed 20% and must be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements must be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.

### Outdoor Lighting

103. All outdoor lighting must comply with AS/NZ1158.3: 1999 Pedestrian Area Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting. Details demonstrating compliance with these requirements must be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.

### Access for People with Disabilities

104. The building in Precinct 1 must be designed and constructed to provide access and facilities for people with a disability in accordance with the BCA. The Certifying Authority must ensure evidence of compliance with this condition from an appropriately qualified person is provided and the requirements are referenced on the Construction Certificate drawings for any building in Precinct 1.

### Parking Spaces

105. The number of car spaces, bicycle spaces and loading bays to be provided for the service station/food and drink premises development in Precinct 1 must comply with the requirements of Section A2 – Site Access and Parking Code of the *Tweed Shire Council Development Control Plan 2008* (as in force at the date of this approval).

### Carpark and Service Vehicle Layout

- 106.
- 1) All vehicles must enter and leave the service station/food and drink premises in a forward direction.
  - 2) Car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) must be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage.
  - 3) Appropriate pedestrian advisory signs must be provided at the egress from the car park.
  - 4) All works/regulatory signposting associated with the service station/food and drink premises must be at no cost to the relevant roads authority.
  - 5) The swept path of the longest vehicle (including garbage trucks and fuel delivery trucks) entering and exiting the site, as well as manoeuvrability through the site, must be in accordance with AUSTROADS.
  - 6) A revised pedestrian movement and access plan which details the interaction between vehicles and pedestrians must be prepared in accordance with the relevant Australian Standards.
  - 7) Details demonstrating compliance with the requirements specified above and the revised pedestrian movement and access plan must be submitted to the satisfaction of the Secretary prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.

### Mechanical Ventilation

107. All mechanical ventilation systems must be installed in accordance with Part F4.5 of the BCA and must comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environmental protection. Details must be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.

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### Storage and Handling of Waste

108. An appropriate area must be provided for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises, outside of the ecological buffer zone and asset protection zone. The location and design of such an area must be in accordance with the requirements of *Tweed Shire Council Development Control Plan 2008* (as in force at the date of this approval).

### Sewer and Water Reticulation

109. The Proponent must prepare a detailed network analysis and plans for each stage of water and sewer reticulation infrastructure including the regional sewerage pumping station prior to the issue of a Construction Certificate for the construction of any building in Precinct 1. The analysis must be prepared to the satisfaction of Council.

### Certification

- 110.
- 1) Proposed earthworks must be carried out in accordance with AS 3798, *Guidelines on Earthworks for Commercial and Residential Developments*.
  - 2) All earthworks must have a finished grade of at least 1% so the site drains to approved permanent drainage systems.
  - 3) The earthworks must be monitored by a Registered Geotechnical Testing Consultant in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying the earthworks comply with AS 3798 and that the development is suitable for its intended use must be submitted to the PCA upon completion.

### Stormwater Quality

- 111.
- 1) Prior to the issue of a Construction Certificate, a detailed Stormwater Management System must be prepared in consultation with Council and approved by the Secretary. The stormwater management system must be designed in accordance with the Tweed Urban Stormwater Quality Management Plan (as in force at the date of this approval) and Council's Development Design Specification D7 - Stormwater Quality (as in force at the date of this approval).by an appropriately qualified engineer, incorporating the following:
    - a) water sensitive design principles and where practical, integrated water cycle management;
    - b) the requirements of the EPA guidelines: 'Environmental Action for Service Stations' (October 2008) to ensure contaminated water does not leave the forecourt area and enters the stormwater system;
    - c) fuel delivery points must be located within the covered forecourt containment area or other appropriate area with separate bunding in accordance with the EPA guideline: 'Environmental Action for Service Stations' (October 2008);
    - d) a proprietary wastewater treatment plant must be installed and used to recycle water used in the car and dog wash facilities. Any wastewater (which is not contaminated with hydrocarbons) from the process must be discharged to sewer under a trade waste agreement;
    - e) the peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, must be no greater than pre-development;
    - f) private stormwater infrastructure must not be located within the ecological buffer or land to be dedicated to Council (including the regional sewer pump station and access to the regional sewer pump station, if that land is to be dedicated to Council). The proposed stormwater treatment device must be located wholly within the development site, and must be maintained in perpetuity by the landholder in accordance with manufactures specifications and is required to meet Council's stormwater quality objectives; and
    - g) the bio-retention basins and/or swales must be maintained and operated in accordance with the approved Stormwater Management System and any conditions imposed by the Secretary as part of the approval of that document.

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- 2) The Proponent must construct the service station/food and drink premises in accordance with the Stormwater Management System (as approved by the Secretary from time to time on application from the proponent), unless otherwise agreed by the Secretary.

### **Erosion and Sediment Control**

112.

- 1) Prior to the issue of a Construction Certificate a detailed erosion and sediment control plan must be prepared in accordance with Section D7.07 of Development Design Specification D7 - Stormwater Quality (as in force at the date of this approval)..
- 2) Construction phase erosion and sediment control must be designed, constructed and operated in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works" (as in force at the date of this approval)..

### **Geotechnical Compliance**

113.

- 1) Prior to the issue of a Construction Certificate, a Detailed Geotechnical Investigation must be undertaken by an appropriately qualified practising professional Geotechnical Engineer, unless considered unjustified by the Geotechnical Engineer and supported in writing and endorsed by Council or the PCA.
- 2) The investigation must identify any areas of compressible clay materials, loose sands, landslip, subsidence or reactive soil profiles which may impact on construction or building activities. If unsuitable materials are identified the investigation must provide recommendations such as preloading or other forms of treatment necessary to achieve surface movement (ys) rates. Consistent preloading must be monitored by settlement plates or detailed survey to determine consolidation/settlement characteristics.

### **Fire Safety**

- 113A. The Applicant must include a list of fire safety measures proposed to be installed in the premises. The list must describe the extent, capability and basis of design of each of the measures. Full details must be included in documentation for a Construction Certificate application.

### **Waste**

- 113B. The Proponent must provide adequate facilities for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and make arrangements for regular removal and disposal. Full details must be included in documentation for a Construction Certificate application.

### **Dewatering**

113C.

- 1) A final Dewatering Management Plan must be prepared in consultation with DPI Water and approved by the Secretary prior to the issue of any Construction Certificate. The plan must take into account the findings of the approved Soil and Erosion Control Plan and Acid Sulfate Soil Management Plan and include the following:
  - a) water quality criteria for waters to be discharged to the stormwater system, to be derived from ANZECC / ARMCANZ (2000) Fresh and Marine Water Quality Guidelines 95 % species protection trigger levels for freshwaters, or similar. Parameters to include, but not be limited to, pH, electrical conductivity, salinity, dissolved oxygen, total suspended solids, turbidity, total titratable acidity, oxidised nitrogen (NOx), total nitrogen (TN), total phosphorus, and soluble aluminum;
  - b) details of proposed water treatment prior to discharge to ensure compliance with the above water quality criteria, including those that are manual and automated;
  - c) details of water sampling methodologies and frequencies for each parameter;
  - d) details of disposal methods if water does not comply with above criteria;
  - e) details of a 24-hour contact person and telephone number for complaints; and
  - f) detailed mitigation measures in order to reduce the dewatering cone of depression, to limit impacts.

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- 2) Any permits required to undertake dewatering must be obtained prior to commencing any dewatering. The Proponent must conduct a thorough site assessment to determine trench safety for the approved works.
- 3) The Secretary must be advised within 24 hours in the event of detection of any failure associated with the dewatering activity being carried out on the site and advise of their proposed contingency measures to rectify any issues.
- 4) The Proponent must carry out the development in accordance with the Dewatering Management Plan (as approved by the Secretary from time to time on application by the proponent), unless otherwise agreed by the Secretary.

### Acid Sulfate Soils

113D.

- 1) Prior to bulk earthworks, soil testing must be conducted to verify the presence of acid sulfate soils in accordance with the *Laboratory Methods 2004* and an Acid Sulfate Soil Management Plan must be prepared in accordance with the *NSW Acid Sulfate Soils Manual 1998 and Condition 17*.
- 2) If acid sulfate soils are identified in the area of excavation works, the Proponent is required to treat the soil in accordance with the *NSW Acid Sulfate Soil Manual 1998* and the *Laboratory Methods 2004*.

### Underground Petroleum Storage Systems

113E. Prior to the issue of the Construction Certificate, certification must be provided by a suitably qualified person that the design of any underground petroleum storage system (UPSS) is in accordance with the NSW Protection of the *Environment Operations (Underground Petroleum Storage Systems) Regulation 2014* (UPSS Regulation), AS 4897-2008 and demonstrates adoption of industry best practice. Certification must include the provision for minimum mandatory pollution protection equipment, consistent with the UPSS Regulation, comprising non-corrodible secondary containment tanks and associated pipework and overfill protection devices.

### Advisory Note:

A Construction Certificate application for works that involve any of the following:

- connection of a private stormwater drain to a public stormwater drain; or
- installation of stormwater quality control devices.

Must not be approved until prior separate approval to do so has been granted by Council under Section 68 of the *Local Government Act*.

Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

Where Council is requested to issue a Construction Certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

## DURING CONSTRUCTION OF PRECINCT 1

### Vegetation Buffer

114.

- 1) A 10 m wide vegetation buffer from the northern boundary of Precinct 1 must be provided inside the site. Screening by physical means other than vegetation is not permitted.
- 2) Plantings along the vegetation buffer must be selected in consultation with the adjacent landowner to the north (195 Tweed Coast Road, Kingscliff) and must comprise native rainforest species to ensure land use conflicts and bushfire impacts are minimised.
- 3) The vegetation buffer is required to be maintained for the life of the development.

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## Erosion and Sediment Control

115.

- 1) Prior to commencement of work on the site all erosion and sedimentation control measures must be installed and operational including the provision of a "shake down" area, where required (if subdivision include to the satisfaction of the Principal Certifying Authority). These measures must be in accordance with the approved erosion and sediment control plan and adequately maintained throughout the duration of the construction.
- 2) In addition to these measures any core flute sign provided with the stormwater approval under Section 68 of the *Local Government Act* must clearly be displayed in the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.
- 3) This sign is to remain in position for the duration of the development.
- 4) Regular inspections must be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.
- 5) Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

## Bushfire Management

116.

- 1) Prior to the issue of the first Construction Certification for development in Precinct 1, a plan identifying the final location of the IPA must be prepared in consultation with the RFS and Council and submitted to the Secretary for approval.
- 2) Prior to the commencement of works and in perpetuity, the entire area north-west of the Koala exclusion fence identified in the plan approved by the Secretary under Condition 116(1) shown on the diagram titled 'Proposed Site Plan' prepared by Push (ref: Job No. 738.12, Drawing 1000, Issue P3, dated December 2016) excluding the 10 metres wide vegetated buffer along the northern boundary, must be managed as an inner protection area (IPA) as outlined in Section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006 (PBP 2006)* and the NSW Rural Fire Service's document *Standards for asset protection zones*. In addition, all planting within the IPA must be in accordance with section A2.2(vi) of PBP 2006.

## Construction Management

116A.

- 1) In addition to condition 116 above, conditions 73 to 92 and conditions 94 to 98 of this project approval (08\_0194) must be complied with during the construction of the service station/food and drink premises in Precinct 1.
- 2) It is the responsibility of the Proponent to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

## Noise and Vibration

116B.

- 1) All pumps used on-site for dewatering operations must be installed on the site in a location that will minimise any noise disturbance to neighboring or adjacent premises and be acoustically shielded to the satisfaction of the Secretary to prevent the emission of offensive noise as a result of their operation.
- 2) The use of vibratory compaction equipment (other than hand held devices) within 100 metres of any dwelling house, building or structure is strictly prohibited.

## Waste

116C. A garbage storage area must be provided in accordance with Council's 'Development Control Plan Section A15 – Waste Minimisation and Management' (as in force at the date of this approval). The storage area must be appropriately landscaped to screen it from public view.

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## Plumbing

116D.

- 1) A notice of plumbing and drainage work must be provided to the Council prior to commencement of any plumbing and drainage work, if it is a condition of any approval given under section 68 of the *Local Government Act 1993*.
- 2) The whole of the plumbing and drainage work must be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

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## **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE FOR SERVICE STATION AND FOOD AND DRINK PREMISES**

### **Damage and Costs**

117.

- 1) The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of Precinct 1 as a result of construction works associated with the service station/food and drink premises must be met in full by the Proponent prior to the issue of any Occupation Certificate for the building in Precinct 1.
- 2) All works/regulatory signposting associated with the service station/food and drink premises must be at no cost to the relevant roads authority.

### **Registration of Easements**

118.

- 1) Prior to the issue of any Occupation Certificate, the Proponent must provide to the Certifying Authority evidence that all matters required to be registered on title including easements and Restrictions as to User under Section 88B of the *Conveyancing Act 1919* required by this approval in relation to the service station/food and drink premises in Precinct 1, have been lodged for registration or registered at the NSW Land and Property Information.
- 2) A restriction to the land use must 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* (as in existence at the date of this approval).
- 3) Easements for sewer, water supply and drainage over public services/infrastructure on private property.
- 4) Drainage Easements must be placed over all subsurface drains and inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains must be included in the 88B instrument.
- 5) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council must contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

### **Structural Inspection Certificate**

119.

- 1) A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the service station/food and drink premises. A copy of the certificate with an electronic set of final drawings (contact approval authority for specific electronic format) must be submitted to the Secretary after:
  - a) the site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings; and
  - b) the drawings listed on the inspection certificate have been checked with those listed on the final design certificate/s.

### **Compliance with Bushfire Requirements**

120.

- 1) Prior to the issue of any Occupation Certificate for the project, a report is must be prepared by a BPAD Certified bushfire consultant that certifies the following:
  - a) compliance with the RFS requirements in Condition 100;
  - b) public road access complies with section 4.1.3 (1) of *Planning for Bush Fire Protection 2006*;
  - c) fire trails comply with section 4.1.3 (3) of *Planning for Bush Fire Protection 2006*;
  - d) asset Protection Zones comply with 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*;
  - e) water, electricity and gas must comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*;
  - f) internal roads must comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*; and

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- g) arrangements for bushfire emergency and evacuation have been detailed within a Bushfire Emergency / Evacuation Plan and comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*.

### **Koala Plan of Management**

121.

- 1) All Koala exclusion fencing must:
  - a. be installed along the eastern and northern boundary of the service station/food and drink premises as identified in 'Proposed Site Plan' prepared by Push (ref: Job No. 738.12, Drawing 1000, Issue P3, dated December 2016); and
  - b. be constructed in accordance with the with the revised Koala Plan of Management approved by the Secretary in accordance with MP06\_0318 Condition C2 and MP08\_0194 Condition 45.
- 2) The Koala fence must be constructed and functional prior to the issue of an Occupation Certificate for any building in Precinct 1. Evidence must be obtained from a suitably qualified ecological professional that certifies management measures have been constructed in accordance with the approved Koala Plan of Management.

### **Landscaping**

122.

Prior to the issue of an Occupation Certificate, evidence must be obtained from a suitably qualified person, and submitted to and approved by the PCA that certifies landscaping has been completed in accordance with the approved Landscape Plan. The Proponent must undertake care and maintenance operations on all streetscapes for a minimum of 12 months after the Subdivision is registered with the Land Titles Office. This is the establishment period for new plantings. Such maintenance will include all soft landscaping, particularly mowing, and weed control. Any power and water consumption costs during this period must also be met by the Proponent.

### **External Lighting**

123.

- 1) The Proponent must submit to the Certifying Authority evidence from an independent qualified practitioner demonstrating compliance with Condition 123.
- 2) All externally mounted artificial lighting, including security lighting, must be shielded where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
- 3) Illuminated signage and lights must be switched off between the hours of 10:30 pm to 6 am each evening.

### **Integrated Water Cycle Management**

124.

The Proponent must provide a Works as Executed Plan to Council that shows relevant construction works including all Water Sensitive and Urban Design measures as required under the approved Integrated Water Cycle Management Plan submitted in accordance with Condition 20 have been satisfactorily completed. The Plan must be endorsed by a Registered Surveyor or Designing Engineer.

### **Infrastructure – Road, Water, Sewer, Telephone and Electricity Services**

125.

- 1) The service station/food and drink premises must be connected to all available services (water, sewer, electricity and telephone). A clearance letter from each authority is required prior to issue of an Occupation Certificate. Such connections, and any extension of services required to the service station/food and drink premises, must be carried out at full cost to the Proponent.
- 2) The service station/food and drink premises must not be operational until the following road infrastructure works are completed and open to traffic as described in Bitzios Consulting 'Kings Forest Service Station Traffic Impact Assessment' (Appendix E, Project No. P1745, Version 006, 4 October 2016, Sheets 1 and 2):
  - a) widening and construction of a dividing median and turning lanes on Tweed Coast Road in the vicinity of Precinct 1; and

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- b) construction of a two lane roundabout at the intersection of Tweed Coast Road and Kings Forest Parkway.
- 3) The service station/food and drink premises must not be operational until the regional sewerage pumping station is commissioned and approved to the satisfaction of Council.

### Underground Petroleum Storage System

125A.

- 1) Prior to issue of an Occupation Certificate, the UPSS must be installed and commissioned in accordance with the following requirements of the *UPSS Regulation 2014*:
  - a) the installation must be appropriately designed as per Condition 113E, installed and commissioned by a duly qualified person in accordance with the *UPSS Regulation 2014* and AS 4897: 2008 '*Design, installation and operation of underground petroleum storage systems*'. A report prepared by a duly qualified person containing, but not limited to, installation specifications of the UPSS and groundwater monitoring wells and current 'as built' drawings of the system must be submitted;
  - b) the installation must have minimum mandatory pollution protection equipment in accordance with best practice;
  - c) the installation must have a certificate showing that Equipment Integrity Testing (EIT) has been undertaken; and
  - d) the system can only be commissioned if all the above requirements have been met.
- 2) The Proponent must install best practise mitigation measures/controls to prevent any off-site impacts in the event of overfilling during tanker fill/s.
- 3) Prior to the commissioning of the proposed UPSS and groundwater monitoring wells, a duly qualified person is required to carry out an EIT on all components of the system in accordance with the *UPSS Regulation 2014*. Written certification from the duly qualified person confirming the EIT has been carried out in accordance with this regulation must be submitted to the PCA prior to the issue of an Occupation Certificate. Groundwater monitoring wells must be sealed to exclude surface water, constructed to prevent cross-contamination with other groundwater monitoring wells, clearly marked to indicate their presence and properly secured.
- 4) An additional groundwater monitoring well must installed and monitored in a location that is representative of groundwater which is migrating towards the SEPP 14 Wetlands and Cudgen Creek to south of Precinct 1. The groundwater well is not permitted to be installed in the ecological buffer or the SEPP 14 Wetlands.
- 5) Baseline data must be obtained from all groundwater monitoring wells prior to the installation of the UPSS.
- 6) All groundwater monitoring wells should be monitored at six monthly intervals as a minimum or as specified under the *UPSS Regulation 2014*.
- 7) Prior to the issue of an Occupation Certificate, the Applicant must submit to the PCA a site specific Environment Protection Plan or equivalent prepared by a duly qualified person in accordance with the *UPSS Regulation 2014*. The Environment Protection Plan or equivalent must accurately reflect the as-built configuration and equipment installed at the site. The Environment Protection Plan must include details of loss monitoring, incident management procedures and use of loss detection procedures. The Environment Protection Plan must be kept on-site for operational reference and made available to authorised officers upon request.

### LPG Tanks

125B.

- 1) The Applicant must ensure that the installation of the LPG tanks is compliant with AS 1596:2008 *LP Gas – Storage and Handling Code*.

### Fire Safety

125C.

- 1) A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) must be submitted to the Commissioner of NSW Fire and Rescue and a further copy of the Certificate (together with a copy of the current fire safety schedule) must be prominently displayed in the premises.

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- 2) An annual Fire Safety Statement in the form described in Clause 175 of the EP&A Regulation must be submitted to the Secretary and Council, and a copy (together with a copy of the current fire safety schedule) must be given to the Commissioner of NSW Fire and Rescue. A further copy of the Statement (together with a copy of the current fire safety schedule) must be prominently displayed in the building.

#### **Stormwater**

- 125D. Works as executed plans for the installed Stormwater Management System must be submitted to the PCA and to Council prior to the issue of an Occupation Certificate. The plans must be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

#### **Waste Management**

- 125E. An operational waste management plan (which will include a program for litter management) must be provided to the satisfaction of the Secretary, in consultation with Council prior to the issue of an Occupation Certificate. The operations of the service station/food and drink premises must comply with the approved waste management plan.

#### **Environmental Works**

- 125F. Prior to the issue of the Occupation Certificate, evidence is to be submitted to the Secretary by a suitably qualified person verifying that all works have been undertaken in accordance with the approved Environmental Management Plans as per Condition 39.

### **DURING OPERATIONS**

#### **Loading and Unloading**

126. All loading and unloading of service vehicles in connection with the use of the service station/food and drink premises must be carried out wholly within the Precinct 1 site at all times.

#### **Unobstructed Driveways and Parking Areas**

127. All driveways and parking areas must be unobstructed at all times. Driveways and car spaces must not be used for the manufacture, storage or display of goods, materials or any other equipment and must be used solely for vehicular access and for the parking of vehicles associated with the use of the service station and food and drink premises.

#### **Road Safety Audit**

- 128.
- 1) Within 6 months of operation, the Proponent must carry out a Road Safety Audit of the service station/food and drink premises. The audit must:
    - a) be conducted in consultation with Council;
    - b) be carried out by a suitably qualified and experienced expert whose appointment has been endorsed by the Secretary;
    - c) audit the service station/food and drink premises whilst it is in operation;
    - d) validate the safety of the road network associated with Precinct 1 including the entry and exit points.
    - e) include a summary of traffic related complaints or accidents and any actions that were carried out to address the complaints;
    - f) review the management practices of the service station/food and drink premises against industry best practice;
    - g) include an action plan that identifies and prioritises additional traffic mitigation measures that may be necessary to reduce traffic incidents;
    - h) provide a further program of monitoring to address traffic issues that may emerge over time.
  - 2) Within three months of commissioning this audit, the Applicant must submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report.
  - 3) The Applicant must comply with any reasonable requirement(s) of the Secretary arising from the Road Safety Audit.

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## Operations

129. The operation must not cause disruption to the amenity of the locality by way of the emission of dust or offensive odours.

## Hours of Work

130.

- 1) The Proponent must comply with the construction and operating hours in the below table unless otherwise agreed to in writing by the Secretary.

Service Station and Food and Drink Premises Hours of Construction and Operation

| Activity     | Day                                                | Hours         |
|--------------|----------------------------------------------------|---------------|
| Construction | Monday to Friday                                   | 7 am to 6 pm  |
|              | Saturday                                           | 8 am to 1 pm  |
|              | Sunday & Public Holidays                           | Nil           |
| Operation    | <b>Trading hours:</b>                              |               |
|              | Monday to Sunday                                   | 6 am to 10 pm |
|              | Public Holidays                                    | 6 am to 10 pm |
|              | <b>Goods Delivering (including fuel delivery):</b> |               |
|              | Monday to Sunday                                   | 7 am to 10 pm |
|              | Public Holidays                                    | 7 am to 10 pm |
|              | <b>Waste Collection:</b>                           |               |
|              | Monday to Saturday                                 | 7 am to 10 pm |
|              | Public Holidays                                    | Nil           |
|              | <b>Car Vacuums:</b>                                |               |
|              | Monday to Sunday                                   | 7 am to 10 pm |
|              | Public Holidays                                    | 7 am to 10 pm |

Clause 1) above does not apply to any activity that is required to be performed by police or other authorities for safety reasons; and/or if there is an on-site emergency that poses an immediate danger to personnel or equipment; and/or the operation or personnel or equipment is endangered. In such circumstances, prior notification must be provided to the EPA and any affected residents as soon as possible, or within a reasonable period in the case of emergency.

## Operational Noise Limits

131. The Applicant must ensure noise from the operation does not exceed the noise limits identified in the below table.

Noise Limits (dB(A)) for Precinct 1.

| Location                              | Noise Limits dB(A)                                            |                          |                          |
|---------------------------------------|---------------------------------------------------------------|--------------------------|--------------------------|
|                                       | Day<br>(7am - 6pm Monday<br>to Saturday; 8am -<br>6pm Sunday) | Evening<br>(6pm - 10pm)  | Night<br>(6am - 7am)     |
|                                       | L <sub>Aeq</sub> (15min)                                      | L <sub>Aeq</sub> (15min) | L <sub>Aeq</sub> (15min) |
| 234-254 Old Bogangar Road, Kingscliff | 49                                                            | 47                       | 41                       |
| 219 Tweed Coast Road, Kingscliff      | 42                                                            | 39                       | 32                       |
| Any dwelling east of Precinct 1       | 37                                                            | 34                       | 28                       |

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- 2) All externally mounted air conditioning units and other mechanical plant or equipment must be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive.
- 3) All plant and equipment (air conditioning, drainage systems, infrastructure, pollution control equipment and fuel burning equipment) installed or used in or on the premises must be:
  - a) maintained in a proper and efficient condition; and
  - b) operated in a proper and efficient manner.
- 4) The car wash is to be constructed with solid walls and a solid roof. The carwash must have automatic doors. These doors must provide more than 15 dB(A) noise reduction.
- 5) Drainage grates over trafficable areas must be fixed to avoid rattling when vehicles pass over the grate.

## Noise

132.

- 1) Within 6 months of operation, the Proponent must carry out a Noise Audit of the service station/food and drink premises. The audit must:
  - a) be carried out by a suitably qualified and experienced expert whose appointment has been endorsed by the Secretary;
  - b) audit the service station/food and drink premises whilst it is in operation;
  - c) validate the noise levels via noise monitoring against the noise limits in Condition 131;
  - d) include a summary of noise related complaints and any actions that were carried out to address the complaints;
  - e) review the management practices of the service station/food and drink premises against industry best practice;
  - f) include an action plan that identifies and prioritises additional noise mitigation measures that may be necessary to reduce noise levels; and
  - g) provide a further program of monitoring to address noise issues that may emerge over time.
- 2) Within three months of commissioning this audit, the Applicant must submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report.
- 3) The Applicant must comply with any reasonable requirement(s) of the Secretary arising from the Noise Audit.

## Bushfire Emergency / Evacuation Plan

132A. Arrangements for bushfire emergency and evacuation must be maintained in accordance with the Bushfire Emergency / Evacuation Plan, as required by Condition 120, and '*Planning for Bush Fire Protection 2006*'. All continuing actions which may be required (e.g. training of staff, signage requirements) must be implemented.

## Impacts on SEPP 14 Wetland

132B. Operation of the service station/food and drink premises must not damage or interfere in any way with the SEPP 14 wetlands, this includes any stormwater or groundwater discharge from the site.

## Underground Petroleum Storage System

132C.

- 1) Any underground petroleum storage system must be operated, maintained and monitored in accordance with the *UPSS Regulation 2014*, AS4897-2008 and industry best practice.
- 2) Groundwater monitoring wells must be maintained to ensure they are sealed to exclude surface water at all times, clearly marked to indicate their presence and properly secured and tested for hydrocarbon contamination at minimum intervals of six months.
- 3) The following fuels and associated quantities are permitted to be stored in the Underground Storage Tanks:

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| Tank No. | Hazardous Material                              | Underground Storage Capacity (Litres) | Dangerous Goods Class/Packaging Group |
|----------|-------------------------------------------------|---------------------------------------|---------------------------------------|
| T1       | AdBlue                                          | 20,000                                | Not classified                        |
| T2       | Diesel                                          | 90,000                                | C1                                    |
| T3       | Premium Diesel                                  | 30,000                                | C1                                    |
| T4       | Premium Unleaded Petrol 95                      | 40,000                                | 3 PG II                               |
| T5       | Premium Unleaded Petrol 98                      | 40,000                                | 3 PG II                               |
| T6       | Unleaded Petrol E10                             | 50,000                                | 3 PG II                               |
| T7       | Unleaded Petrol 91                              | 60,000                                | 3 PG II                               |
| T8       | Liquid Petroleum Gas (to be stored underground) | 30,000                                | 2.1 PG                                |

### Stormwater

132D. All stormwater infrastructure including (underground collection pits, waste water treatment plant/s and oil separators) must be maintained and serviced by appropriate waste contractors as required to ensure proper function.

### Spill Management

132E. A diesel exhaust fluid and hydrocarbon spill kit must be kept on-site at all times and deployed during a spill event.

### Car and Dog Wash

132F. Any solid waste from the car and dog wash must be disposed of to a licenced waste facility.

### Odour

132G. The Applicant must ensure the development does not cause or permit the emission of any offensive odour (as defined in the POEO Act).

### Landscaping

132H. All landscaping work must maintained in accordance with the approved plans for the life of the development.

### Signage and advertising

132I.

- 1) Any prominent signage must be generally of a kind, and in the locations, shown in the approved drawings.
- 2) No flashing, or chasing lighting is to be installed or displayed on the exterior of the premises.
- 3) Any flags, bunting or other promotional material of a like nature must be arranged and properly maintained in a manner which does not detract from the appearance of the premises or the streetscape and which does not represent a hazard to the public.
- 4) Goods or advertising signs must not be displayed or allowed to stand on the public footpath or street.
- 5) Illuminated signage and lights which may impact on the residents on Old Bogangar Road must be switched off between 10:30pm and 6am each evening.

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## PART FOUR – SUBDIVISION OF PRECINCT 5 (LOT 2)

### PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

#### **Amendments to Subdivision of Precinct 5**

133. Prior to the registration of final subdivision plans for Precinct 5 an amended subdivision plan shall be submitted to the ~~Secretary~~ ~~Director-General~~ for approval that includes an additional 49.66 hectare environmental reserve lot immediately adjacent to proposed lot 1002 and 1003, and any associated ecological buffers as depicted as 'conservation offset (future) land' and 'B50 – 50m ecological buffers' on the 'Plan of Proposed Areas to be Dedicated to Council with Work Areas' prepared by Landsurv Pty Ltd dated 2 October 2012, Revision D, in accordance with the revised plan of dedication required by term B5 of the modified concept plan approval.

#### **Compliance Certificates**

134. Prior to the application for a Subdivision Certificate for each stage of the subdivision of Precinct 5, a Compliance Certificate or Certificates shall be obtained from council for the following:-
- 1) Compliance Certificate – Bulk Earthworks
  - 2) Compliance Certificate – Roads
  - 3) Compliance Certificate - Water Reticulation
  - 4) Compliance Certificate - Sewerage Reticulation
  - 5) Compliance Certificate – Drainage and Services

Note: All compliance certificate applications must be accompanied by documentary evidence from the developers' Accredited Certifier certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the approval, the Construction certificate, *Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual* and Councils relevant Development Design and Construction Specifications unless otherwise altered by the Kings Forest Development Code. The EP&A Act makes no provision for works under the Water Management Act 2000 to be accredited by an "accredited certifier".

#### **Part 4A Certificate**

135. Prior to the registration of final subdivision plans for Precinct 5 in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979* for each stage of the subdivision of Precinct 5.

#### **Geotechnical Certification**

- 136.
- 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:
    - 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).
    - ~~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.~~
  - 2) This certification shall be provided to the PCA prior to the release of the Subdivision Certificate for the first stage of the project.

#### **Post Construction Dilapidation Report**

137. A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of the works for each stage of the subdivision to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs if required. The report is to be submitted to the PCA, prior to issue of the Subdivision Certificate for each stage of the subdivision of Precinct 5.

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### Acoustic Provisions

138. Certification shall be received from an appropriately qualified acoustic engineer that all acoustic barriers have been installed in accordance with the Environmental Noise Impact Report prepared by CRG Acoustical Consultants dated 24 August 2012.

### Damage to Property

- 139.
- 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.
  - 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.

### Traffic and Access

140. In order to ensure appropriate access arrangements to the site have been made, the following roads and intersections shall be constructed to the relevant RTA and AUSTROADS standards prior to the release of a Subdivision Certificate for the first stage of subdivision in Precinct 5.
- 1) Kings Forest Parkway from the intersection of Tweed Coast Road to the first roundabout
  - 2) Intersection of Tweed Coast Road and Kings Forest Parkway
  - 3) The roundabout at the intersection of Kings Forest Parkway and the Precinct 5 entrance road.

### Bushfire Management

- 141.
- 1) Prior to the issue of a Subdivision Certificate for any stage of the subdivision of Precinct 5, the Proponent shall engage a suitably qualified bushfire consultant to certify that the site layout complies with the following:
    - a) The asset protection zones (APZ) required by *Planning for Bushfire Protection 2006* are to be provided in accordance with the Bushfire Risk Assessment prepared by Bushfiresafe (Aust) Pty Ltd dated August 2012. Details of the APZs (as it relates to each stage of the project) are to be provided to the satisfaction of the Certifying Authority prior to the release of the Construction certificate for each stage of the project.
    - b) Water, Electricity and Gas shall comply with the requirements of Section 4.2.7 of *Planning for Bushfire Protection 2006*.
    - c) The internal road shall comply with the requirements of Section 4.2.7 of *Planning for Bushfire Protection 2006* and the entrance way to the parking area shall be a minimum of 6.5 metres in width.
    - d) Landscaping shall comply with the principles of Appendix 5 of *Planning for Bushfire Protection 2006*.
    - e) An Emergency Evacuation Plan is to be prepared in line with NSW RFS document *Guidelines for the Preparation of an Emergency/Evacuation Plan*.
  - 2) A fire trail is to be provided around Lot 1001 to provide access to the APZ and bushland interface for fire fighting purposes. The fire trail shall comply with section 4.1.3(3) of *Planning for Bushfire Protection 2006*.
  - 3) Notwithstanding 2) above, the Proponent may provide alternate access to the APZ and bushland interface within the future development of Lot 1001 where such a trail affects the design layout of the future townhouse development on Lot 1001. Any such proposal to delete the fire trail should be referred to the RFS for consideration and approval.
  - 4) Certification shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate for each stage of the subdivision in Precinct 5.
  - 5) A Plan of Management shall be prepared by a suitably qualified bushfire consultant for the future ongoing maintenance of asset protection zones prior to the release of the Subdivision Certificate for each relevant stage of the subdivision of Precinct 5.

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## Flood Management

142. Prior to issue of a Subdivision Certificate for any stage of the subdivision, evidence is to be obtained from a suitably qualified professional civil engineer that certifies flood management works have been completed in accordance with the Preliminary Flood Assessment prepared by Gilbert & Sutherland dated September 2012 in Appendix 18 of the Proponent's PPR. This includes the following:
- 1) Finished pad levels across the site should be consistent with the recommended levels in the Flooding and Flood Management Assessment to ensure flood immunity during a 100 year Average Recurrence Interval (ARI) flood event, incorporating future high range climate change impacts (0.91m sea level rise plus 10% increase in rainfall intensity)
  - 2) Appropriate and safe emergency evacuation routes have been provided to all residents during a Probable Maximum Flood event
  - 3) Habitable floor levels are set at 0.5m above the upper limit high climate change (0.91m sea level rise plus 10% increase in rainfall intensity) ARI 100 year event.

## Registration of Easements / Restrictions to Use / Rights of Carriageway

- 143.
- 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.
    - 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*.
    - d) A Restriction as to User on all residential lots prohibiting the keeping of cats within the site.]
    - 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.
    - 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.
    - 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.
    - ~~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.~~
  - 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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### Utilities – Water, Sewer, Telephone and Electricity Services

144. All residential lots in Precinct 5 are to be connected to all available services (water, sewer, electricity and telephone). A clearance letter from each authority is required prior to issue of a Subdivision Certificate for each stage of the subdivision. Such connections, and any extension of services required to the development, are to be carried out at full cost to the Proponent.

### Landscaping

145. Upon completion of landscape works, and prior to the issue of a Subdivision Certificate for any stage of the subdivision of Precinct 5, evidence is to be obtained from a suitably qualified person, and submitted to and approved by the PCA that certifies landscaping has been completed in accordance with the approved Landscape Plan submitted in accordance with condition 35. The Proponent shall also ensure that this landscaping is maintained in accordance with the Landscape Plan and in a healthy and vigorous state prior to any handover to council.

### Embellishment of Open Space

146. The Proponent must provide the appropriate level area for the play equipment with a minimum fall of 1:100, and provide to council a bank guarantee or cash contribution equivalent to the value of such items prior to release of the Subdivision Certificate for each stage.

Note: Council will undertake the installation of the play equipment and softfall at the appropriate time, but not before 20% of the Precinct 5 allotments are occupied. The developer must provide a bank guarantee or cash contribution to the value of such items prior to the release of the Subdivision Certificate for each stage Council will undertake the installation at the appropriate time.

### Integrated Water Cycle Management

147. The Proponent shall provide a Work as Executed Plan to Council that shows relevant construction works including all Water Sensitive and Urban Design measures as required under the approved Integrated Water Cycle Management Plan have been satisfactorily completed. The Plan shall be endorsed by a Registered Surveyor or Designing Engineer prior to the issue of a Subdivision Certificate for any stage of the subdivision of Precinct 5.

### Koala Plan of Management

148. All necessary management measures relevant to Precinct 5 (exclusion fencing, road grids, traffic calming devices, underpasses etc) required by the ~~approved Koala Plan of Management prepared by James Warren and Associates dated August 2012~~ **updated Koala Plan of Management approved by the Secretary under Condition 45A**, must be constructed and functional prior to the release of a Subdivision Certificate for the first stage of the subdivision in Precinct 5. Evidence is to be obtained from a suitably qualified ecological professional that certifies management measures have been constructed in accordance with the **updated** ~~approved~~ Koala Plan of Management **approved by the** ~~Secretary and submitted to the Secretary for approval.~~

### ~~Dedication of Public Open Space~~

- ~~149. The Proponent must make necessary arrangements for the progressive dedication of the public open space areas to council within Precinct 5 prior to the release of the subdivision certificate for that stage of the subdivision works in Precinct 5. Areas to be dedicated are to be consistent with the Plan of Development in Appendix 5 of the Proponent's PPR (Plan Nos 12, 13 and 14 dated 15 August 2012). This condition does not apply to the land dedicated to Council in the future.~~

### Public Reserves and Drainage Reserves

- 149** ~~148.~~ The Proponent must make necessary arrangements for the progressive dedication of the public reserves and drainage reserves within Precinct 5 on the registration of the relevant plan of subdivision for each stage. Areas to be dedicated are to be consistent with sheets 1 to 11 'Plan of Proposed Subdivision of Lot 2 (Precinct 5) Kings Forest For Stage 1 Project Application' dated 5 September 2012, revision D, prepared by Landsurv Pty Ltd.

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### **Dedication of Land to OEH**

- ~~150. In accordance with the terms of the Concept Plan approval (06\_0318), the Proponent must provide evidence of an agreement for the dedication to OEH of approximately 150ha of Offset Land as addition to the Cudgen Nature Reserve prior to the release of a subdivision certificate for Precinct 5. The land to be dedicated is that land shown on the 'Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development' Revision C, dated 23 August 2012 in Appendix 9 of the PPR. Such an agreement must outline the Proponent's commitment to establish boundary fences, access trails and fire trails satisfactory to the needs of OEH prior to the Offset Land being added to the Cudgen Nature Reserve. The Proponent must ensure suitable funding for the amendment of existing reserve specific fire, pest and weed management plans. The funding should be sufficient to ensure actions within the Environmental Management Plans, as amended under this approval, relevant to the new additions are able to be completed.~~

### **Dedication of Land to OEH**

149. In accordance with the terms of the Concept Plan approval (06\_0318), the Proponent must provide evidence of an agreement for the dedication to the OEH of at least approximately 150ha of land as addition to the Cudgen Nature Reserve prior to the release of a subdivision certificate under Part 4 of this approval for Precinct 5. The land to be dedicated is that land shown on the 'Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development' Revision C, dated 23 August 2012 (listed in condition A3). Such an agreement must outline the Proponent's commitment to establish boundary fences, access trails and fire trails to the satisfaction of the OEH prior to the land being added to the Cudgen Nature Reserve. The Proponent must ensure suitable funding for the amendment of existing reserve specific fire, pest and weed management plans. The funding should be sufficient to ensure actions within the Environmental Management Plans, as amended under this approval, relevant to the new additions are able to be completed.

### **Dedication of Internal Roads**

151. All internal roads in Precinct 5 shall be constructed by the Proponent prior to the issue of a Subdivision Certificate and the roads shall be dedicated to Council upon registration of the Plan of Subdivision in the Land Titles Office, for that relevant stage of subdivision. Street numbering and street naming is to be determined in accordance with Council's street numbering policy.

### **Dedication of Drainage Reserve**

152. Prior to the release of the subdivision certificate for each stage of the subdivision of Precinct 5 the Proponent shall:
- Indicate on the Plan of Subdivision dedication of the proposed drainage reserve at no cost to council.
  - Submit an accurate plan of the proposed drainage reserve to council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

### **Defects Liability Bond**

- 153.
- Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with council.
  - The bond shall be based on 5% of the value of the works on land to be dedicated to Council as a consequence of the Plan of Subdivision to which the Subdivision Certificate relates (or minimum amount as tabled in Council's fees and charges current at the time of payment, whichever is greater) which will be held by council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the Proponent to apply for refund following the remedying of any defects arising within the 6 month period.
  - Prior to the issue of a Subdivision Certificate, a maintenance bond equal to 25% of the contract value of the footpath construction works on land to be dedicated to Council as a consequence of the plan of subdivision to which the Subdivision Certificate relates shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

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- 4) Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.
- 5) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping on land to be dedicated to Council as a consequence of the Plan of Subdivision to which the Subdivision Certification relates is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.
- 6) The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.

#### Section 94 Developer Contributions

154.

- a) Contributions plans relevant to the project include:
  - i. CP04 Section 94 Plan No.4 – Tweed Road Contribution Plan
  - ii. CP11 Section 94 Plan No.11 – Shire Wide Library Facilities
  - iii. CP12 Section 94 Plan No.12 – Bus Shelters
  - iv. CP13 Section 94 Plan No.13 – Eviron Cemetery
  - v. CP18 Section 94 Plan No.18 – Council Administration Offices and Technical Support Facilities
  - vi. CP19 Section 94 Plan No.19 – Casuarina Beach / Kings Forest
  - vii. CP22 Section 94 Plan No.22 – Cycleways
  - viii. CP26 Section 94 Plan No.26 – Shirewide Regional Open Space
- b) Pursuant to Section 109J of the *Environmental Planning and Assessment Act, 1979* a Subdivision Certificate shall not be issued unless all Section 94 Contributions have been paid and the Certifying Authority has sighted council's "Contribution Sheet" signed by an authorised officer of council. These charges include indexation provided for in the Section 94 Plan and will remain fixed for a period of 12 months from the date of this approval and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.
- c) All contributions for Stage 1 - Precinct 1 are applicable as at the date of determination for MP 08 0194 MOD 6 only, and thereafter in accordance with the rates applicable in the current version/edition of CP04 Section 94 Plan No.4 – Tweed Road Contribution Plan current at the time of payment.
- d) In accordance with Division 6 of Part 4 of the Act, the Proponent shall pay, in proportion to the additional lots created by each stage of the subdivision, the following monetary contributions:

#### Stage 1 – Precinct 1

|                              | Trips/ET       | Rate per trip (less 40 per cent employment generating discount contained in Council's Business Investment Policy, Ver 2.0, commenced 1 December 2016)/ET | Total Contribution                             |
|------------------------------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| <b>S94 Plan No. 4 (7)***</b> | 680.2213 trips | <del>\$1395 per trip</del><br><u>\$1231 per trip – 40% = \$738.60</u>                                                                                    | <del>\$948,908.71</del><br><u>\$502,411.45</u> |
| <b>S94 Plan No. 18</b>       | N/A            | N/A                                                                                                                                                      | N/A                                            |

\* ET = Equivalent Tenements

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\*\* Any works in kind for cycleways will be considered and offset against CP 22 when construction and costings are available.

\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(1)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 647.4 trips     | \$1186 per trip         | \$767,816                 |
| <b>S94 Plan No. 11</b>                              | 101.25 ET       | \$838 per ET            | \$84,848                  |
| <b>S94 Plan No. 12</b>                              | 101.25 ET       | \$64 per ET             | \$6,480                   |
| <b>S94 Plan No. 13</b>                              | 101.25 ET       | \$123 per ET            | \$12,454                  |
| <b>S94 Plan No. 18</b>                              | 101.25 ET       | \$1860.31 per ET        | \$188,356.39              |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 101.25 ET       | \$2263 per ET           | \$229,129                 |
| <b>S94 Plan No. 22**</b>                            | 101.25 ET       | \$473 per ET            | \$47,891                  |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 101.25 ET       | \$1091 per ET           | \$110,464                 |
| <b>S94 Plan No. 26<br/>Structured</b>               | 101.25 ET       | \$3830 per ET           | \$387,788                 |

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(2)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 156 trips       | \$1186 per trip         | \$185,016                 |
| <b>S94 Plan No. 11</b>                              | 25.375 ET       | \$838 per ET            | \$21,264                  |
| <b>S94 Plan No. 12</b>                              | 25.375 ET       | \$64 per ET             | \$1,624                   |
| <b>S94 Plan No. 13</b>                              | 25.375 ET       | \$123 per ET            | \$3,121                   |
| <b>S94 Plan No. 18</b>                              | 25.375 ET       | \$1860.31 per ET        | \$47,205.37               |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 25.375 ET       | \$2263 per ET           | \$57,424                  |
| <b>S94 Plan No. 22**</b>                            | 25.375 ET       | \$473 per ET            | \$12,002                  |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 25.375 ET       | \$1091 per ET           | \$27,684                  |
| <b>S94 Plan No. 26<br/>Structured</b>               | 25.375 ET       | \$3830 per ET           | \$97,186                  |

\* ET = Equivalent Tenements

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(3)

|                              | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b> | 98.8 Trips      | \$1186 per trip         | \$117,177                 |
| <b>S94 Plan No. 11</b>       | 15.75 ET        | \$838 per ET            | \$13,199                  |

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|                                                     |          |                  |             |
|-----------------------------------------------------|----------|------------------|-------------|
| <b>S94 Plan No. 12</b>                              | 15.75 ET | \$64 per ET      | \$1,008     |
| <b>S94 Plan No. 13</b>                              | 15.75 ET | \$123 per ET     | \$1,937     |
| <b>S94 Plan No. 18</b>                              | 15.75 ET | \$1860.31 per ET | \$29,299.88 |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 15.75 ET | \$2263 per ET    | \$35,642    |
| <b>S94 Plan No. 22**</b>                            | 15.75 ET | \$473 per ET     | \$7,450     |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 15.75 ET | \$1091 per ET    | \$17,183    |
| <b>S94 Plan No. 26<br/>Structured</b>               | 15.75 ET | \$3830 per ET    | \$60,323    |

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(4)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 265.2 Trips     | \$1186 per trip         | \$314,527                 |
| <b>S94 Plan No. 11</b>                              | 43 ET           | \$838 per ET            | \$36,034                  |
| <b>S94 Plan No. 12</b>                              | 43 ET           | \$64 per ET             | \$2,752                   |
| <b>S94 Plan No. 13</b>                              | 43 ET           | \$123 per ET            | \$5,289                   |
| <b>S94 Plan No. 18</b>                              | 43 ET           | \$1860.31 per ET        | \$79,993.33               |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 43 ET           | \$2263 per ET           | \$97,309                  |
| <b>S94 Plan No. 22**</b>                            | 43 ET           | \$473 per ET            | \$20,339                  |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 43 ET           | \$1091 per ET           | \$46,913                  |
| <b>S94 Plan No. 26<br/>Structured</b>               | 43 ET           | \$3830 per ET           | \$164,690                 |

\* ET = Equivalent Tenements

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(5)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 384.8 Trips     | \$1186 per trip         | \$456,373                 |
| <b>S94 Plan No. 11</b>                              | 59.75 ET        | \$838 per ET            | \$50,071                  |
| <b>S94 Plan No. 12</b>                              | 59.75 ET        | \$64 per ET             | \$3,824                   |
| <b>S94 Plan No. 13</b>                              | 59.75 ET        | \$123 per ET            | \$7,349                   |
| <b>S94 Plan No. 18</b>                              | 59.75 ET        | \$1860.31 per ET        | \$111,153.52              |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 59.75 ET        | \$2263 per ET           | \$135,214                 |
| <b>S94 Plan No. 22**</b>                            | 59.75 ET        | \$473 per ET            | \$28,262                  |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 59.75 ET        | \$1091 per ET           | \$65,187                  |
| <b>S94 Plan No. 26<br/>Structured</b>               | 59.75 ET        | \$3830 per ET           | \$228,843                 |

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(6)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 153.4 Trips     | \$1186 per trip         | \$181,932                 |
| <b>S94 Plan No. 11</b>                              | 25.25 ET        | \$838 per ET            | \$21,160                  |
| <b>S94 Plan No. 12</b>                              | 25.25 ET        | \$64 per ET             | \$1,616                   |
| <b>S94 Plan No. 13</b>                              | 25.25 ET        | \$123 per ET            | \$3,106                   |
| <b>S94 Plan No. 18</b>                              | 25.25 ET        | \$1860.31 per ET        | \$46,972.83               |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 25.25 ET        | \$2263 per ET           | \$57,141                  |
| <b>S94 Plan No. 22**</b>                            | 25.25 ET        | \$473 per ET            | \$11,943                  |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 25.25 ET        | \$1091 per ET           | \$27,548                  |
| <b>S94 Plan No. 26<br/>Structured</b>               | 25.25 ET        | \$3830 per ET           | \$96,708                  |

\* ET = Equivalent Tenements

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(7)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 322.4 Trips     | \$1186 per trip         | \$382,366                 |
| <b>S94 Plan No. 11</b>                              | 51.25 ET        | \$838 per ET            | \$42,948                  |
| <b>S94 Plan No. 12</b>                              | 51.25 ET        | \$64 per ET             | \$3,280                   |
| <b>S94 Plan No. 13</b>                              | 51.25 ET        | \$123 per ET            | \$6,304                   |
| <b>S94 Plan No. 18</b>                              | 51.25 ET        | \$1860.31 per ET        | \$95,340.89               |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 51.25 ET        | \$2263 per ET           | \$115,979                 |
| <b>S94 Plan No. 22**</b>                            | 51.25 ET        | \$473 per ET            | \$24,241                  |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 51.25 ET        | \$1091 per ET           | \$55,914                  |
| <b>S94 Plan No. 26<br/>Structured</b>               | 51.25 ET        | \$3830 per ET           | \$196,288                 |

\* ET = Equivalent Tenements

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule

#### Stage 2 – Precinct 5 – Sub Stage 2(8)

|                              | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b> | 208 Trips       | \$1186 per trip         | \$246,688                 |
| <b>S94 Plan No. 11</b>       | 34.75 ET        | \$838 per ET            | \$29,121                  |
| <b>S94 Plan No. 12</b>       | 34.75 E         | \$64 per ET             | \$2,224                   |

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|                                                     |         |                  |             |
|-----------------------------------------------------|---------|------------------|-------------|
| <b>S94 Plan No. 13</b>                              | 34.75 E | \$123 per ET     | \$4,274     |
| <b>S94 Plan No. 18</b>                              | 34.75 E | \$1860.31 per ET | \$64,645.77 |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 34.75 E | \$2263 per ET    | \$78,639    |
| <b>S94 Plan No. 22**</b>                            | 34.75 E | \$473 per ET     | \$16,437    |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 34.75 E | \$1091 per ET    | \$37,912    |
| <b>S94 Plan No. 26<br/>Structured</b>               | 34.75 E | \$3830 per ET    | \$133,093   |

\* ET = Equivalent Tenements

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\*\*\* Where the development includes construction of works identified in the Tweed Road Contribution Plan Works Schedule, "in-kind" credits may be applied as offsets to CP4 up to the value contained in the Works Schedule  
Stage 2 – Precinct 5 – Sub Stage 2(9)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 182 Trips       | \$1186 per trip         | \$215,852                 |
| <b>S94 Plan No. 11</b>                              | 30.75 ET        | \$838 per ET            | \$25,769                  |
| <b>S94 Plan No. 12</b>                              | 30.75 ET        | \$64 per ET             | \$1,968                   |
| <b>S94 Plan No. 13</b>                              | 30.75 ET        | \$123 per ET            | \$3,782                   |
| <b>S94 Plan No. 18</b>                              | 30.75 ET        | \$1860.31 per ET        | \$57,204.53               |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 30.75 ET        | \$2263 per ET           | \$69,587                  |
| <b>S94 Plan No. 22**</b>                            | 30.75 ET        | \$473 per ET            | \$14,545                  |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 30.75 ET        | \$1091 per ET           | \$33,548                  |
| <b>S94 Plan No. 26<br/>Structured</b>               | 30.75 ET        | \$3830 per ET           | \$117,773                 |

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Stage 2 – Precinct 5 – Sub Stage 2(10)

|                                                     | <b>Trips/ET</b> | <b>Rate per trip/ET</b> | <b>Total Contribution</b> |
|-----------------------------------------------------|-----------------|-------------------------|---------------------------|
| <b>S94 Plan No. 4 (7)***</b>                        | 78 Trips        | \$1186 per trip         | \$92,508                  |
| <b>S94 Plan No. 11</b>                              | 17.5 ET         | \$838 per ET            | \$14,665                  |
| <b>S94 Plan No. 12</b>                              | 17.5 ET         | \$64 per ET             | \$1,120                   |
| <b>S94 Plan No. 13</b>                              | 17.5 ET         | \$123 per ET            | \$2,153                   |
| <b>S94 Plan No. 18</b>                              | 17.5 ET         | \$1860.31 per ET        | \$32,555.43               |
| <b>S94 Plan No. 19<br/>Community<br/>Facilities</b> | 17.5 ET         | \$2263 per ET           | \$39,603                  |
| <b>S94 Plan No. 22**</b>                            | 17.5 ET         | \$473 per ET            | \$8,278                   |
| <b>S94 Plan No. 26<br/>Casual</b>                   | 17.5 ET         | \$1091 per ET           | \$19,093                  |
| <b>S94 Plan No. 26<br/>Structured</b>               | 17.5 ET         | \$3830 per ET           | \$67,025                  |

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## Section 64 Developer Contributions

155.

- a) Development Servicing plans relevant to the project include:
  - i. Tweed Shire Council Development Servicing Plans for Water Supply Services July 2007
  - ii. Tweed Shire Council Development Servicing Plans for Sewerage Supply Services July 2007
- b) A certificate of compliance (CC) under Sections 305, 306 and 307 of the *Water Management Act 2000* is to be obtained from council to verify that the necessary requirements for the supply of water and sewerage to the development have been made.
- c) Pursuant to Section 109J of the *Environmental Planning and Assessment Act, 1979* a Subdivision Certificate shall not be issued unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's ~~"Contribution Sheet"~~ and a "Certificate of Compliance" signed by an authorised officer of council.
- d) The below charges remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in council's adopted Fees and Charges current at the time of payment.
- e) The Proponent shall pay, in proportion to the additional lots created by each stage, the following ~~estimate~~ monetary contributions:

### Stage 1 – Precinct 1

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 19.2631 ET                 | \$13,386 per ET    | \$257,855.86              |
| <b>South Kingscliff Water Levy</b> | 19.2631 ET                 | \$338 per ET       | \$6,510.92                |
| <b>Sewer Kingscliff</b>            | 30.4854 ET                 | \$6,431 per ET     | \$196,051.61              |

### Stage 2 – Precinct 5 – Sub Stage 2(1)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 113 ET                     | \$12,575 per ET    | \$1,420,975               |
| <b>South Kingscliff Water Levy</b> | 113 ET                     | \$292 per ET       | \$32,996                  |
| <b>Sewer Kingscliff</b>            | 113 ET                     | \$6,042 per ET     | \$682,746                 |

### Stage 2 – Precinct 5 – Sub Stage 2(2)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 25.4 ET                    | \$12,575 per ET    | \$319,405                 |
| <b>South Kingscliff Water Levy</b> | 25.4 ET                    | \$292 per ET       | \$7,417                   |
| <b>Sewer Kingscliff</b>            | 26 ET                      | \$6,042 per ET     | \$157,092                 |

### Stage 2 – Precinct 5 – Sub Stage 2(3)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 16 ET                      | \$12,575 per ET    | \$201,200                 |
| <b>South Kingscliff Water Levy</b> | 16 ET                      | \$292 per ET       | \$4,672                   |
| <b>Sewer Kingscliff</b>            | 16 ET                      | \$6,042 per ET     | \$96,672                  |

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Stage 2 – Precinct 5 – Sub Stage 2(4)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 42.8 ET                    | \$12,575 per ET    | \$538,210                 |
| <b>South Kingscliff Water Levy</b> | 42.8 ET                    | \$292 per ET       | \$12,498                  |
| <b>Sewer Kingscliff</b>            | 44 ET                      | \$6,042 per ET     | \$265,848                 |

Stage 2 – Precinct 5 – Sub Stage 2(5)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 60 ET                      | \$12,575 per ET    | \$754,500                 |
| <b>South Kingscliff Water Levy</b> | 60 ET                      | \$292 per ET       | \$17,520                  |
| <b>Sewer Kingscliff</b>            | 60 ET                      | \$6,042 per ET     | \$362,520                 |

Stage 2 – Precinct 5 – Sub Stage 2(6)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 26 ET                      | \$12,575 per ET    | \$326,950                 |
| <b>South Kingscliff Water Levy</b> | 26 ET                      | \$292 per ET       | \$7,592                   |
| <b>Sewer Kingscliff</b>            | 26 ET                      | \$6,042 per ET     | \$157,092                 |

Stage 2 – Precinct 5 – Sub Stage 2(7)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 52 ET                      | \$12,575 per ET    | \$653,900                 |
| <b>South Kingscliff Water Levy</b> | 52 ET                      | \$292 per ET       | \$15,184                  |
| <b>Sewer Kingscliff</b>            | 52 ET                      | \$6,042 per ET     | \$314,184                 |

Stage 2 – Precinct 5 – Sub Stage 2(8)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 36 ET                      | \$12,575 per ET    | \$452,700                 |
| <b>South Kingscliff Water Levy</b> | 36 ET                      | \$292 per ET       | \$10,512                  |
| <b>Sewer Kingscliff</b>            | 36 ET                      | \$6,042 per ET     | \$217,512                 |

Stage 2 – Precinct 5 – Sub Stage 2(9)

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 30.8 ET                    | \$12,575 per ET    | \$387,310                 |
| <b>South Kingscliff Water Levy</b> | 30.8 ET                    | \$292 per ET       | \$8,994                   |
| <b>Sewer Kingscliff</b>            | 32 ET                      | \$6,042 per ET     | \$193,344                 |

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## Stage 2 – Precinct 5 – Sub Stage 2(10)

|                                    | Equivalent Tenement | Rate per ET     | Total Contribution |
|------------------------------------|---------------------|-----------------|--------------------|
| <b>Water DSP5</b>                  | 16 ET               | \$12,575 per ET | \$201,200          |
| <b>South Kingscliff Water Levy</b> | 16 ET               | \$292 per ET    | \$4,672            |
| <b>Sewer Kingscliff</b>            | 20 ET               | \$6,042 per ET  | \$120,840          |

### **Works as Executed**

156.

- 1) The Proponent is to construct, at own cost, all civil and service infrastructure works to service each stage of the subdivision, in accordance with the construction certificate under the supervision of a professional engineer or registered surveyor.
- 2) Works as Executed Plans shall be submitted in accordance with the provisions of Council's *Development Control Plan A5 - Subdivisions Manual* (as in force at the date of this approval) and Council's *Development Design and Construction Specification, D13 - Engineering Plans* (as in force at the date of this approval).
- 3) The earthworks shall be monitored by a Registered Geotechnical Testing Consultant in accordance with AS 3798-2007 'Guidelines on earthworks for commercial and residential developments' (August 2008). A certificate from a registered Geotechnical Engineer certifying that the earthworks comply with that standard and that the development is suitable for its intended use shall be submitted to the PCA upon completion.
- 4) The plans are to be endorsed by a Registered Surveyor or a Consulting Engineer Certifying that:
  - a) all relevant drainage systems, sewer lines, services and structures (as appropriate) are wholly contained within an appropriate easement created by the subdivision;
  - b) the plans accurately reflect the Works as Executed.

Note: Where works are carried out by Council on behalf of the Proponent it is the responsibility of the Proponent to prepare and submit works-as-executed plans.
- 5) Work as Executed Plans (WAX) must also be submitted for all landscaped casual and active open space. These must show all underground services, irrigation systems and the location of concrete paths, structures, other park infrastructure and garden bed outlines. The plans are to be certified by a registered surveyor or consulting engineer. Two categories of WAX plans are to be provided:
  - a) The original approved plan with any variation to this indicated.
  - b) Plan showing only the actual as constructed information.
- 6) The plans are to be submitted in the following formats:
  - a) 2 paper copies of the same scale and format as the approved plan.
  - b) A PDF version on CD or an approved medium.
  - c) An electronic copy in DWG or DXF format on CD or an approved medium.

### **Services – Telephone and Electricity Services and Federal Government's National Broadband Network (NBN)**

157.

- 1) In accordance with the Federal Government's National Broadband Network (NBN) initiatives (as may be in force at the time), the Proponent is required (at the Proponent's expense) to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN CO's Specifications, to allow for the installation of Fibre To The Home (FTTH) broadband services, or a complying alternative to the satisfaction of the relevant Federal Government Agency.
- ~~2) The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed must be submitted prior to the issue of a Subdivision Certificate for each stage of the project.~~
- 2) The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply at the front boundary of the allotment must be submitted prior to the issue of a Subdivision Certificate for each stage of the project.

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- 2) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity has been completed prior to the issue of a Subdivision Certificate for each stage of the project.
- 3) The reticulation is to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.
- 4) The submission to the Certifying Authority and subsequent registration of the required right of carriageway / easement for services / restrictions as to users is required.

## **Water Supply and Sewer**

158.

- 1) Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual (as in force at the date of this approval), Councils Development Design and Construction Specifications (as in force at the date of this approval) and the Construction Certificate approval.
- 2) The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.
- 3) Note: The *Environmental Planning and Assessment Act 1979* makes no provision for works under the *Water Management Act, 2000* to be certified by an Accredited Certifier.
- 4) The site of the sewage pumping stations shall be transferred to Council in fee simple no cost to Council within 28 days of the date of registration of the Plan of Subdivision. The size and shape of the lot shall be determined on the basis of the design of the pump station taking into account all infrastructure to be constructed on the site at the initial stage and at any future stage of the development of Kings Forest as indicated by the Water and Sewer Strategy (as in force at the date of this approval) and Council's Development Design Standards and Standard Drawings (as in force at the date of this approval). Location, size and layouts shown on the drawings are considered indicative and may be subject to change to ensure compliance with relevant standards and requirements.

## **Required Drainage Inspections**

159.

- 1) Prior to the issue of both a Subdivision Certificate and the end of the defects liability period, a CCTV inspection of any stormwater pipes and culverts installed and intended to be dedicated to Council including joints and junctions, will be required to demonstrate that the standard of the infrastructure is acceptable to council.
- 2) All drainage design must comply with Council's Development Design and Construction Specifications (as in force at the date of this approval) in the Tweed Shire Council Development Control Plan – Section A5 - Subdivision Manual.
- 3) Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification (as in force at the date of approval).
- 4) All costs associated with the CCTV inspection and repairs shall be borne by the Proponent.
- 5) Prior to the issue of a Subdivision Certificate for any stage of the subdivision, the Certifying Authority must undertake a final inspection of the works and be satisfied that all relevant conditions of approval have been complied with.
- 6) All components of biofiltration areas shall be constructed in accordance with the construction certificate prior to the issue of a subdivision certificate for any area within the contributing catchment, however the biofiltration areas shall be provided with temporary protection measures (such as turf) at all points of discharge into the swale/basin where sediment laden runoff may discharge during the dwelling construction phase of the precinct. The developer shall provide to Council a bank guarantee or cash contribution equivalent to the value of removing the temporary protection measures and providing the completed surface treatment, including all plantings, in accordance with approved construction certificate plans, to allow Council to undertake the surface works at an appropriate time.

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### **Assets Created**

160. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

### **Survey Marks**

161. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate for each stage of the subdivision in accordance with the Survey Practices Regulation.

### **DURING OPERATIONS**

#### **Bushfire Management**

162. At the issue of first Subdivision Certificate and in perpetuity the asset protection zones identified on the plan titled Plan of Proposed Subdivision of Lot 2 (Precinct 5) Kings Forest, prepared by Landsurv Pty Ltd, ref: 34860-2 (Sheet 1 of 1 – revision D and Sheets 1 of 11 to 11 of 11 – revision D), dated 05.09.2012, shall be managed as an inner protection area (IPA) 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* (as in force at the date of this approval).
- 

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## ADVISORY NOTES

### Appeals

- A1. The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the EP&A Act and the *Environmental Planning and Assessment Regulation 2000*.

### Other Approvals and Permits

A2.

- 1) The Proponent shall apply to the council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act 1993* or Section 138 of the *Roads Act 1993*.
- 2) The Proponent must obtain relevant licences under the *Water Act 1912* and the *Water Management Act 2000* (whichever is relevant at the time the application is made) for all activities that intercept or extract groundwater or surface water prior to commencement of these activities.

### Responsibility for other consents / agreements

- A3. The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### SEPP14 Wetlands

- A5. Undertaking developments which damage coastal wetlands without the necessary approvals is a breach of the EP&A Act 1979 and may lead to court action. Land managers or landowners who carry out clearing, draining, filling or the construction of levees within a SEPP 14 area without approval run the risk of facing court proceedings under sections 123 or 125 of the EP&A Act. Failure to comply with SEPP 14 can result in substantial fines and orders to plant and maintain vegetation under section 126 of the EP&A Act. Orders to remedy or restrain a breach of the EP&A Act can also be made under section 124.

### Temporary Structures

- A6. An approval under *State Environmental Planning Policy (Temporary Structures) 2007* must be obtained from the council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia. Structural certification from an appropriately qualified practicing structural engineer must be submitted to the council with the application under *State Environmental Planning Policy (Temporary Structures) 2007* to certify the structural adequacy of the design of the temporary structures.

### Disability Discrimination Act

- A7. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

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### Commonwealth Environment Protection and Biodiversity Conservation Act 1999

A8. The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister. This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Proponent's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

## MAP 1



Map 1: Location of ex-Banana Land, nominated by OEH as potential land for Koala food tree planting (condition 45).

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### **SCHEDULE 3**

#### **STATEMENT OF COMMITMENTS**

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## ATTACHMENT 1

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**APPENDIX 3      Letter from Tweed Shire Council Dated 30 June 2020**

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**DAC Planning Pty Ltd**

A.C.N. 093 157 165

Town Planning & Development Consultants

30 June 2020

[tsc@tweed.nsw.gov.au](mailto:tsc@tweed.nsw.gov.au)  
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PO Box 816  
Murwillumbah NSW 2484

Please address all communications  
to the General Manager

ABN 90 178 732 496

Darryl Anderson  
DAC Planning Pty Ltd  
[jenny@dacplanning.com.au](mailto:jenny@dacplanning.com.au)

Dear Darryl

**RE: Kings Forest Stage 1 – MP08\_0194 (as modified) – Modification application to amend Conditions 35, 40 – 44, 47 and 48 – Invitation for Council comments**

Thank you for the opportunity to comment on your proposed modification application to modify MP08\_0194 (Mod 8) to amend the timing for submission of the landscape plan required under Condition 35 and the environmental management plans required under Conditions 40 (Vegetation Management Plan), 41 (Buffer Management Plan), 42 (Weed Management Plan), 43 (Threatened Species Management Plan), 44 (Feral Animal Management Plan), 47 (Flora and Fauna Monitoring Report) and 48 (summary of management plans) of MP08\_0194 (as modified).

**Condition 35 – Revised Landscape Plan**

As per your letter of 19 June 2020, it is noted that you will be seeking to modify Condition 35 to change the timing for the submission and approval of the revised landscape plan from *'prior to the issue of a Construction Certificate for Stage 1 bulk earthworks'* to *'prior to the issue of a Construction Certificate for civil works'*.

Council Officers have no objection to the proposed modification of Condition 35 as above.

**Conditions 40, 41, 42, 43, 44, 47 and 48 – Environmental Management Plans**

As set out in your letter of 19 June 2020, it is noted that you are also seeking to modify the timing for conditions 40 - 44, 47 and 48 of MP08\_0194 (as modified).

The relevant conditions are set out hereunder (bolding used for emphasis):

***Vegetation Management Plans***

40.

- 1) *The Works Schedule of all Vegetation Management Plans shall be amended to include "Assisted natural regeneration" as the preferred Proposed Measure for Works Areas 2, 13 and Additional Work Areas and wherever significant natural regeneration is occurring within the EPZ and/or ecological buffer areas. This approach should be adopted in preference to revegetation or rehabilitation programs, incorporated as a guiding principle in the Statement of Commitments and relevant plans.*

- 2) **The final Vegetation Management Plans shall be prepared in consultation with Council and submitted to the ~~Director-General-Secretary~~ for approval within ~~12 months of this approval~~ 6 months of the date of determination of the application (No. 2012/2328) mad under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act, or prior to issue of any construction certificate, whichever occurs first.**

#### **Buffer Management Plans**

41.

- 1) Figures 10 and 10A to 10L shall be revised as necessary to ensure that spatial overlap of heath revegetation, Koala food tree planting and Wallum Sedge Frog compensatory habitat is minimised.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) **The final Buffer Management Plans shall be prepared in consultation with Council and submitted to the ~~Director-General-Secretary~~ for approval within ~~12 months~~ 6 months of the date of determination of the application (No. 2012/2328) mad under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act of this approval or prior to issue of any construction certificate, whichever occurs first.**

#### **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.~~
  - ~~2) The final Weed Management Plans shall be prepared in consultation with Council and submitted to the Director-General for approval within 12 months 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act.~~
  - ~~3) of this approval or prior to issue of any construction certificate, whichever occurs first.~~
42. The Weed Management Plans shall be amended to ensure that:
- 1) Control of all weeds will occur:
    - a. in Environmental Protection Zones located on the Kings Forest site; and
    - b. for a distance of 20 metres into the adjacent Cudgen Nature Reserve.
  - 2) Control of Slash Pine only will occur for a further distance of 80 metres into Cudgen Nature Reserve.
  - 3) Weed management activities should be undertaken utilizing bush regeneration techniques including stem injection.

#### **Threatened Species Management Plans**

43.

- 1) Proposed "melon hole" creation shall not be permitted in Acid Frog Compensatory Areas 5, 6, 7 and 8. Details of alternative offsetting arrangements for the loss of Wallum Froglet Habitat across the site must be included in the final Threatened Species Management Plan.
- 2) Tree plantings are to be minimised in areas that are identified as naturally regenerating.
- 3) The species list in Appendix 3 of the Threatened Species Management Plan – Precincts 1 and 5, James Warren & Associates, August 2012, for restoration works within the Precinct 1 ecological buffer shall be revised to demonstrate that species used in restoration works within and adjacent to the Littoral Rainforest within Precinct 1 to include only those species known from the patch or other locally-occurring rainforest species.

- 4) Details of whether and how the proposed removal of sediment from Blacks Creek may impact upon threatened wetland bird species (black necked stork, black bittern) must be included in the Plan, including any proposed mitigation measures.
- 5) **The final Threatened Species Management Plans shall be prepared in consultation with Council and submitted to the ~~Director-General~~ Secretary for approval within ~~12 months of this approval~~ 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.**

#### **Feral Animal Management Plan**

44.

- 1) The implementation schedule of the Feral Animal Management Plan shall be revised to include the following details as relevant to the Precincts that the plan covers::
  - a. Estimated number of resources required for trapping activities, capture activities and habitat removal activities
  - b. Estimated resources required for monitoring actions
- 2) The Feral Animal Management Plan is to be revised to include mitigation and management actions for the control of Biting Insects, and consistent with Section A6 Biting Midge and Mosquito Controls of the Tweed DCP 2008.
- 3) **The final Feral Animal Management Plan shall be prepared in consultation with Council and submitted to the ~~Director-General~~ Secretary for approval within ~~12 months of this approval~~ 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.**

#### **Flora and Fauna Monitoring Report**

47. The Flora and Fauna Monitoring Report (FFMR) should be revised to the satisfaction of OEH as follows:

- 1) The FFMR framework should be revised to ensure that monitoring of impacts in relation to threatened wetland bird species (black-necked stork, black bittern) takes suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek.
- 2) Table 4 – Threatened Fauna shall include the requirement to report fauna monitoring results to Council and OEH
- 3) The discussion of methodology in relation to monitoring of Koala should be more fully developed than that provided in Table 5 and Section 5.3, to the satisfaction of OEH
- 4) The monitoring of impacts in relation to threatened wetland bird species (Table 12) should take suitable account of any measures proposed in relation to drainage maintenance of Blacks Creek, and be consistent with actions specified in the Drain Maintenance Management Plan and Threatened Species Management Plans.
- 5) The results of all monitoring of feral animals (Table 13) shall be additionally reported to OEH to assist in efforts to co-manage any feral animal problems on and adjacent to the site.
- 6) **The final Flora and Fauna Monitoring Report shall be prepared in consultation with Council and submitted to the ~~Secretary~~ Director-General for approval within ~~12 months of this approval~~ 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.**

### Summary of Management Plans

48. *The Summary of Management Plans (SOMP) shall be revised to ensure consistency with all relevant management plans to the satisfaction of the Secretary Director-General within ~~12 months of this approval~~ 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first.*

The conditions above require the approval of the relevant environmental management plans *'within 6 months of the date of determination of the application (No. 2012/2328) made under sections 130(1) and 133 of the Commonwealth Environmental Protection and Biodiversity Conservation Act or prior to issue of any construction certificate, whichever occurs first'*.

It is acknowledged that the 6 month specified period has now passed, and as such the conditions cannot technically be complied with, without modifying the conditions.

As such Council has no objection to modifying the above conditions to specify the approval deadline as *'prior to issue of a construction certificate for bulk earthworks'*, with this being the first Construction Certificate which will be issued.

The proponent's request to nominate the approval period as *'prior to issue of a construction certificate for civil works'* is not supported.

It is questionable as to whether this is a logical interpretation of the deadlines specified above (*'prior to issue of any construction certificate'*) in that the construction certificate for the bulk earthworks will proceed the construction certificate for the civil works.

Further to this, concern is raised with the proposed further deferral of approval of the relevant environmental management plans on the following basis:

- The existing delays in the approval of these environmental management plans have already resulted in management and design conflicts. Further delays are likely to result in similar issues.
- The environmental management plans cannot be implemented until they are approved. Under Concept Approval MP06\_0318 Condition B7 and MP08\_0194 Project Approval Condition A13 the implementation of these plans should have already commenced by date of commencement of the project but this has not been possible due to delays in their approval.

#### *B7 Implementation of Environmental Management Plans*

- 1) *The proponent is responsible for the management of all Potential Council Land and the Future OEH Land for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans from the date of the commencement of the project or at another time directed by the Secretary, until such time that an agreement is reached with OEH and /or Tweed Shire Council regarding the dedication of that land.*

*Note: For the purpose of this condition, commencement is taken to mean "any preparatory works required to be undertaken including clearing vegetation, the use of heavy duty*

equipment for the purpose of breaking ground for bulk earthworks, or infrastructure for the proposed project.

#### *Management and Maintenance of Environmental Lands*

**A13.** *The proponent is responsible for the management of all Potential Council Land and Future OEH Land for conservation purposes and the implementation of all establishment period and maintenance period works specified in all Environmental Management Plans from the date of the commencement of the project, or at another time directed by the Secretary, until such time that an agreement is reached with OEH and /or Tweed Shire Council regarding the dedication of that land.*

*Note: For the purpose of this condition, commencement is taken to mean any physical works including clearing vegetation, the use of heavy duty equipment for the purpose of breaking ground for bulk earthworks, or infrastructure for the proposed project.*

- At present there is no environmental management works occurring on site. There is concern that this is allowing weeds to proliferate in some areas, while areas set aside for koala tree planting are naturally regenerating with coast wattle and other species not suitable for koalas. Further delays, have the potential to delay the required offset plantings and jeopardise the management strategies currently included in the plans under review. There is also no active management of bushfire risk to koalas and other fauna on site.
- While the environmental management plans primarily guide management of areas outside of the development footprint, they also contain guidance on clearing and fauna management protocols within the construction zone.
- Further delays are inconsistent with Project Approval MP08\_0194 Condition 50 which requires an environmental bond based on the costs of the works in the approved plans:

#### *Bond for Environmental Restoration Works*

50.

- a) *Prior to commencement of bulk earth works for each precinct a cash bond or bank guarantee shall be lodged with Council to ensure that the relevant environmental management plans for the associated Potential Council Land (as outlined by the Potential Council Land Plan detailed in condition B5 of the concept plan) is implemented. The amount of such bond will be based on 135% of the cost of the environmental works (repair and/or enhancement) for the associated precinct/Potential Council Land for the establishment period specified in the approved environmental management plans. Two written quotes from suitably experienced and qualified contractors must be submitted to the Council which detail the cost of all works required.*

*The cash bond or bank guarantee will be refunded, following the written approval from the Secretary of the environmental audit for the associated Potential Council Land as per condition 49(1).*

- b) *Once the establishment period has been completed, every 2 years the Proponent shall lodge a cash bond or bank guarantee with Council to ensure that the relevant environmental management plans for the Potential Council Land are implemented for that 2 year maintenance period. The amount of such bond will be based on 135% of the cost of the environmental maintenance works for the associated precinct/Potential Council Land (as outlined by the Potential Council Land Plan detailed in condition B5 of the concept plan) for that 2 year period, or until the completion criteria specified in the environmental management plans are met as required by Condition 39, and the land is transferred to public ownership. Two written quotes from suitably experienced and qualified contractors*

*must be submitted to the Council which detail the cost of all works required in the relevant 2 year maintenance period.*

- c) *The cash bond or bank guarantee will be refunded at the end of each two year maintenance period subject to the Audit Report confirming that the requirements of the approved environmental management plans have been implemented by the Proponent.*
- d) *Monitoring of the effectiveness of the environmental works (repair, enhancement and/or maintenance) is to be undertaken in accordance with Condition 49. Any supplementary or approved adaptive management works deemed necessary by the independent contractor shall be promptly undertaken once the need is identified.*
- e) *Bi-annual bonding will no longer be required following the Proponent providing evidence to the Secretary that the final audit has been conducted in accordance with Condition 49 which demonstrates that the relevant works have been completed and written evidence is provided to the Secretary that the lands have been transferred into public ownership.*

- Further delays in approving the environmental management plans, which are anticipated to include indicative implementation costs, will also delay the calculation of a special environmental levy rate.
- Certain infrastructure works, such a water and wastewater works will not be able to commence without these approvals in place.

It is further noted in the Secretary's Environmental Assessment Report 75W for MP06\_0318 MPD 3 and MP08\_0194 Mod 1 where the proponent previously sought to extend the timeframes for the submission and approval of environmental plans that it was anticipated that the environmental management plans would be finalised by late 2014:

## **5.2 Extended Timeframes – Various Terms and Conditions (Concept Plan and Project Approval)**

The proponent is seeking to extend the timeframes of various terms and conditions of the concept plan and stage 1 project approval that require the submission of various plans and environmental management plans (refer to **Tables 1 and 2 in Appendix 1**).

The proponent has justified the need for extended timeframes due to the outstanding determination by the Commonwealth Department of Environment under the EPBC Act, in relation to proposed actions (works approved under the concept plan and stage 1 project) which affect federally listed species or communities, in particular Koalas and Wallum Sedge Frogs.

The construction of the Kings Forest development was declared by the Commonwealth as a controlled action in November 2012, requiring assessment and approval under the EPBC Act. The proponent indicates that the Commonwealth's determination is required to enable the project to proceed and enable the terms of the concept plan and the conditions of the project approval to be addressed in a comprehensive and integrated manner, having particular regard to the terms or conditions of any Commonwealth approval.

The department considers that it would be unreasonable to provide for a period of 24 months for the proponent to submit further details required in terms B4 (East/West wildlife corridor) and B6 (revised Kings Forest Development Code) and to submit the various environmental management and environmental management plan requirements set out in conditions 3, 40, 41, 42, 43, 44, 45, 47 & 48. This would have the potential to unduly delay finalisation of these matters.

The department considers that an extended timeframe of 6 months, from the expected date of determination of the EPBC Act approval (likely to be May 2014), will provide for a reasonable period to meet the requirements of the above terms and conditions of approval. Based on the current expected date of determination, this will therefore require that these terms and conditions are finalised by late 2014. This provides at least for a further 4 months period compared to the current requirements in most of these specified terms and conditions. The proponent has agreed to these amended timeframes.

Based on the above, Council respectfully requests that you reconsider your proposal to seek to modify the timelines for Conditions 40-44, 47 and 48 of MP08\_0194.

Council are supportive of a modification application which seeks to clarify that the approval period for the relevant environmental management plans would be '*prior to the issue of a Construction Certificate for bulk earthworks*'. However, we cannot support an application that would seek to extend the timeframes to '*prior to the issue of a Construction Certificate for Civil Works*'.

Regards



Per

**Lindsay McGavin**

Manager Development Assessment and Compliance



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**APPENDIX 4      Owner's Consent**

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**DAC Planning Pty Ltd**

A.C.N. 093 157 165

Town Planning & Development Consultants

Modification of MP08\_0194 (as modified)  
Project No: KFOR 20/73 – July 2020

MP08\_0194 (MOD10)  
Kings Forest Stage 1

# Project 28 Pty Ltd



25 June 2020

The Secretary  
Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Dear Sir

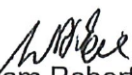
## **Kings Forest-Major Project Approval No. 08-0194 (MOD10)**

Project 28 Pty Ltd, as owner of the Kings Forest site, being the land described in the Schedule below, hereby grants owner's consent to the lodgment of a Modification Application in respect of Major Project Approval No. 08-0194 (MOD10).

### Land Description Schedule

Lot 76, 272, 323 and 326 of DP 755701;  
Lot 6 DP 875446;  
Lot 2 DP 819015 (now Part Lot 50 DP 1188902);  
Lot 1 DP706497;  
Lot 40 DP7482;  
Lot 38A DP 13727; Lot 388 DP 13727; Lot 1 DP 129737;  
Lot 1 DP 781633;  
Lot 7 DP 875447;  
Lot 37A DP 13727;  
Lot 2 DP 1159231 (closed road);  
Lot 1 DP 1178256 (closed road); and  
Lots 1, 2 & 3 DP 1157616 (closed roads).

Yours faithfully  
Project 28 Pty Ltd

  
William Robert Ell  
Director/Secretary

  
Robert John Ell  
Director





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**APPENDIX 5      Modification Application Form**

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**DAC Planning Pty Ltd**

A.C.N. 093 157 165

Town Planning & Development Consultants

Modification of MP08\_0194 (as modified)  
Project No: KFOR 20/73 – July 2020

MP08\_0194 (MOD10)  
Kings Forest Stage 1

## Application to modify a State Significant Development consent that was formerly a project to which Part 3A applied

This form has been developed for modification applications for projects that were previously projects to which Part 3A applied and declared to be State significant development (SSD) under clause 6 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

Before lodging this form, you should contact the Department of Planning and Environment to:

- ensure your project has been declared to be SSD under clause 6 of Schedule 2;
- discuss information requirements and the fee for your application.

This form should only be used in these circumstances.

If you are submitting an application to modify a SSD project approved under Part 4 of the EP&A Act this should be made online on the Department's [Major Project website](#).

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### Applicant Details:

Title

First Name

Last Name

Telephone or Mobile

Email

Company/Organisation

ABN

Address

City

State

Post Code

### Mailing Address Details:

Same as above      Yes      No

Address

City

State

Post Code

**Political Donations:**

Persons lodging applications are required to declare reportable political donations (including donations of \$1,000 or more) made in the previous two years. For more details, go to <http://www.planning.nsw.gov.au/assess-and-regulate/development-assessment/systems/donations-and-gift-disclosure>.

Do you need to make a political donations disclosure statement?

Yes - Please ensure you complete and attach a Political Donations Disclosure Statement.

No

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**Development Details:**

Please provide the name and application number of the development consent for which a modification is being sought.

Please provide a description of the development to be carried out under the consent (as previously modified). If this is addressed in supporting documentation, it is sufficient to just provide references to the relevant document and section within that document.

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**Site Details:**

Please provide a description of the address and formal particulars of title of the land on which the development is to be carried out. If this is addressed in supporting documentation, it is sufficient to just provide references to the relevant document and section within that document.

Is there additional land included in the modification?

Yes

No

If Yes, please describe the land to be added to the original site. Provide Lot/DP or Lot/Section/DP or Lot/Strata No.

If a detailed site description is included in supporting documentation, it is sufficient to just provide references to the relevant document and section within that document.

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### Modification Type:

Please select the type of modification application that is being sought:

Section 4.55(1) involving minor error, misdescription or miscalculation.

Section 4.55(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.

Section 4.55(2) other modification, where the development as originally approved remains substantially the same.

Section 4.56 modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.

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### Modification Description:

In the case of a section 4.55(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.

In the case of a section 4.55(1A), section 4.55(2) or section 4.56 application briefly describe the proposed modification in the space below, including any conditions of consent to be modified and/or deleted.

If the modification description is addressed in supporting documentation, it is sufficient to just provide references to the relevant document and section within that document.

**Modification Impact:**

Please provide a description of the expected impacts of the modification. If this is addressed in supporting documentation, it is sufficient to just provide references to the relevant document and section within that document.

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**Modification Extent:**

For modification applications under section 4.55(1A) or section 4.56, please provide an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved.

For modification applications under section 4.55(2), please provide an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development as last modified under section 75W.

If this information is addressed in supporting documentation, it is sufficient to just provide references to the relevant document and section within that document

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**Capital Investment Value and Jobs:**

What is the additional Capital Investment Value (\$) that would result from this modification application?

What would be the net change to the number of full time equivalent construction jobs created as a result of this application?

What would be the net change to the number of full time equivalent operational jobs created as a result of this application?

**Approvals:**

Did the original development, (but for section 4.41 of the EP&A Act), require any of the following?

- a permit under section 201, 205 or 219 of the Fisheries Management Act 1994
- an approval under Part 4, or an excavation permit under section 139, of the Heritage Act 1977
- an Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974
- a bush fire safety authority under section 100B of the Rural Fires Act 1997
- a water use approval under section 89, a water management work approval under section 90 or an activity approval under section 91 of the Water Management Act 2000

Did the original development require any of the following approvals in order to be carried out (section 4.42 of the EP&A Act)? Select all that apply.

- an aquaculture permit under section 144 of the Fisheries Management Act 1994
  - an approval under section 15 of the Mine Subsidence Compensation Act 1961
  - a mining lease under the Mining Act 1992
  - a petroleum production lease under the Petroleum (Onshore) Act 1991
  - an environment protection licence under Chapter 3 of the Protection of the Environment Operations Act 1997 (for any of the purposes referred to in section 43 of that Act)
  - a consent under section 138 of the Roads Act 1993
  - a licence under the Pipelines Act 1967
- 

**Supporting Information:**

What supporting documents are you submitting with this application?

- Biodiversity development assessment report\*
- Statement from a qualified designer\*\*
- BASIX certificate(s)\*\*\*
- Other supporting information

Please list other supporting documents if applicable

**Additional Requirements:**

\* In the case of an application that is accompanied by a biodiversity development assessment report, the application must contain information regarding the reasonable steps taken to obtain the like-for-like biodiversity credits required to be retired under the report to offset the residual impacts on biodiversity values if different biodiversity credits are proposed to be used as offsets in accordance with the variation rules under the *Biodiversity Conservation Act 2016*.

If this is addressed in supporting documentation, it is sufficient to just provide references to the relevant document and section within that document.

\*\*Where the application relates to residential apartment development and the development application was required to be accompanied by a design verification from a qualified designer under clause 50(1A), the application must be accompanied by a statement by a qualified designer that meets the requirements.

\*\*\*Development for which the development application was required to be accompanied by a BASIX certificate or BASIX certificates, or if it relates to BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 2A of Schedule 1 for it to be so accompanied), must also be accompanied by the appropriate BASIX certificate or BASIX certificates.

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**Landowner's Consent:**

Have you attached landowner's consent?

Yes

No - owner's consent is not required for this application as it is 'public notification development' under clause 49 of the *Environmental Planning and Assessment Regulation 2000*.

Please note:

Landowner's consent requirements apply to modification applications in the same way as they apply to development applications. If you are unsure, refer to sections 115 and 49 of the *Environmental Planning and Assessment Regulation 2000*.

Where the application relates to land owned by a Local Aboriginal Land Council, the consent of the New South Wales Aboriginal Land Council is required.

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**Confirmation:**

Name:

Date:

In what capacity are you completing the form if you are not the applicant?