

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Keiran Thomas
Director
Regional Assessments

Sydney 7 October

2020

SCHEDULE 1

Development consent: **MP08-0194** granted by the Planning and Assessment Commission on 11 August 2013

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

Applicant: Project 28 Pty Ltd

Consent Authority: Minister for Planning and Public Spaces
The Land: Kings Forest Estate
Lot 76, 272, 323 and 326 of DP 755701;

Lot 6 DP 875446;
Lot 2 DP 819015;
Lot 1 DP 706497;
Lot 40 DP 7482;
Lot 38A DP 13727;
Lot 38B 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,
Lot 1, 2 & 3 DP 11757616 (closed roads).

Modification:

MP08_0194 MOD 10: the modification includes

- Modify Condition 5, to amend the timing for the submission of amended civil works drawings.
- Modify Condition 35 to amend the timing for the submission of the landscape plan.
- Modify Conditions 40, 41, 42, 43, 44, 47 and 48 to amend the timing for submission of the Environmental Management Plans.

SCHEDULE 2

- (a) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

Earthworks Prohibited in Ecological Buffers

5.

Prior to the issue of the first construction certificate for bulk earthworks, ~~all civil works drawings~~ **all bulk earthworks 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.

Prior to the issue of the first construction certificate 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 civil work 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.

- (b) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 35 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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~~ **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.

- (c) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 40 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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 construction certificate, whichever occurs first~~ **prior to the issue of a construction certificate for Stage 1 bulk earthworks.**

- (d) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 41 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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~~ **prior to the issue of a construction certificate for Stage 1 bulk earthworks.**

- (e) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 42 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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 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.~~

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.
 - 4) **The final Weed Management Plans shall be prepared in consultation with Council and submitted to the Secretary prior to issue of a construction certificate for Stage 1 bulk earthworks.**
- (f) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 43 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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.
 - 4) 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~~ **prior to the issue of a construction certificate for Stage 1 bulk earthworks.**
- (g) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 44 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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~~ **prior to the issue of a construction certificate for Stage 1 bulk earthworks.**

- (h) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 47 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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.
- 5) 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~~ **prior to the issue of a construction certificate for Stage 1 bulk earthworks.**

- (i) Schedule 2 Part Two – Bulk Earthworks and Civil Works (all precincts), Condition 48 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

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~~ **prior to the issue of a construction certificate for Stage 1 bulk earthworks.**

**End of modification
(SSD MP08-0194 MOD 10)**