

Our ref: Modification 14 Kings Forest Stage 1 – Bulk Earthworks (MP08\_0194-Mod-14)

Mr Brett McDonald  
General Manager  
Kings Forest Estates Pty Limited  
Level 1, 46 Cavill Avenue  
Surfers Paradise QLD 4217

12/07/2024

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Subject: Response to Submissions

Dear Mr McDonald

I refer to modification application Modification 14 Kings Forest Stage 1 – Bulk Earthworks (MP08\_0194-Mod-14).

The Department consulted internally and referred the application to Tweed Shire Council, and comments have been received that raise issues with the proposal and require further consideration. The comments are available at

<https://www.planningportal.nsw.gov.au/major-projects/projects/modification-14-kings-forest-stage-1-bulk-earthworks>

The Department requests that you prepare and submit a written response to submissions (RTS) and additional information addressing the matters raised in the submissions. A summary of the issues raised is provided at **Attachment A**.

You are requested to provide a written response and information addressing the issues raised, or notification that a response and information will not be provided, through the Major Projects website at the NSW Planning Portal by Thursday 8 August 2024. If you cannot meet this deadline or do not intend to provide the additional information, please advise the department via the NSW Planning Portal. The written response should be guided by the *State Significant Development Guidelines Appendix C - Preparing a Submissions Report* available at <https://www.planning.nsw.gov.au/policy-and-legislation/planning-reforms/rapid-assessment-framework/improving-assessment-guidance>

As at the date of this letter, the number of days in the assessment period that have elapsed stands at 88 days.

If you have any questions, please contact Michael Doyle on (02) 9228 6283 or via email at [michael.doyle@dpie.nsw.gov.au](mailto:michael.doyle@dpie.nsw.gov.au).

Yours sincerely

Keiran Thomas  
**Director**  
**Regional Assessments**

As delegate for the Planning Secretary

## Attachment A – Submissions Summary

### Tweed Shire Council

#### 1. The Department's application documentation requirements dated 11 July 2023 not met

##### Item A1

- The plans do not address:
  - Landscape buffer vegetation type, density, maturity and porosity unknown.
  - Bulk earthworks proposed in Precinct 3 is contrary to Condition A12.
  - K7 in Precinct 4 - The Aboriginal Heritage Zone in which no construction access is permitted should be identified on the plan
  - The terms 'stabilised' and 'exposed areas' need to be defined
- The haulage route to the Borrow area traverses the approved Spoil Area in Precinct 7 Phase 4 which is to be secured with Temporary No-go fencing
- Attachment 5 Morton's justification letter does not include updated supporting documents
- Key concerns: An updated Sediment & Erosion Plan should include soils cover measures, dust generation management measures, and dust monitoring details

##### Item A2

- Submission of an updated Sediment & Erosion Plan with stabilisation details cannot be deferred to a post-consent matter, however this information could be a fluid document
- An updated Sediment & Erosion Control Plan should include blending and other dust impact measures and monitoring details

##### Item A3

- Submission of stabilisation measures certification cannot be deferred to a post-consent matter
- It is unclear whether a bond under proposed condition 9(h) would require Council to rectify the issue. Bonds should only be for non-essential works or defects during the liability period

##### Item A4

- Submission of a soil deficiencies remediation plan should be provided as part of the subject application

##### Item B1

- The application does not include geotechnical consultant endorsement for a civil engineer to certify compliance
- Any Condition 11 amendment should specify that the "suitably qualified person" has NER (National Engineering Registration)

##### Item B3

- It is unclear how borrow area material will be blended without crushing
- Borrow area is 50m to two dwellings on site and 90m to dwellings off site. An assessment of potential impacts (noise, vibration, dust generation) is required

##### Item B4

- The application must demonstrate that acceptable noise & vibration levels are achievable.

- Refer to submission for required Acoustic & Vibration report content (ie standards compliance, noise modelling, noise source height & line of sight, and contingency measures)

Item B5

- There are neighbouring properties. A soil/dust suppression plan should be provided as part of the subject application

**2. Key concerns**

- Waste/fill does not result in acid sulfate soil or contaminated land risks
- A Contamination UFP is required
- Waste material removed from or imported to the site requirements
- Lack of dust control, and additional water carts employed

**3. Conditions changes**

Condition A6

- Attachment 5 Mortons letter refers to 'Sk 025 A', whereas the mod rpt proposes change to (and includes Attachment 4) 'Sk 025 B'. It is therefore unclear if Mortons' comments are consistent with the plan proposed to be endorsed

Condition 9(d)

- Council officers are not satisfied with the definition of "Stabilised".
- There needs to be a performance/ achievement criterion for monitoring. Council currently operates at 80% grass strike.

Condition 9(e)

- This condition may need to be modified

Condition 10

- Information required at this stage to determine the efficacy of the landscape buffer would include species types, buffer width and length, planting density, performance criteria (porosity of the buffer, minimum height for effectiveness, replacement rate), maintenance program (replanting, watering, thinning/pruning, management for bushfire protection, control of noxious weeds, litter build-up, etc), establishment period, etc.
- The buffer should also be designed by a suitably qualified professional
- An establishment period is required. Any agreed buffer should be in place prior to any earthworks at this location.
- 'Temporary screen fencing may be used' is vague

**4. Other**

- Viability of landscape buffer, and notification
- How savings will be passed on to the purchaser
- Suggested condition requiring an independent Certifier Professional

**DPHI Compliance comments**

**1. Request for further information**

- Proposed condition 9(h) bond: Amount of bond, clarity and enforceability of the erosion and sediment control plan requirements, and oversight mechanisms
- Mechanical blending

- Planting (timing, plant species maturity, line-of-sight)
- Fence height
- What will happen to the borrow pit at end of its life
- Crushing, blending and stabilised definitions

## **2. Request for conditions**

- The Department be formally notified through the Major Projects Portal of the commencement of each Stage/Phase of bulk earthworks.
- Any reference to 5ha be removed from the Approval. i.e. one 30ha limit across the site for all exposed disturbed areas
- The proponent submit periodic updates of calculated exposed disturbed areas. The report to include drone imagery of the site that differentiates from exposed disturbed areas and areas that have been stabilised.
- A Certified Professional in Erosion and Sediment Control (CPESC) specialist provide a periodic report (timing TBC) submitted via the Major Project Portal as to the condition of each stabilised area and provide recommendations where appropriate based on their observations; The Proponent is to provide a response as to how they intend to address any recommendations provided by the CPESC.
- Either the Environmental Officer role be replaced with the more commonly used Environmental Representative requirement or the requirement of the Environmental Officer be reviewed and clarified.

Note: Roadworks that will become the permanent road network for the residential development are not within the ambit of Condition 9(d) and Condition 52(2)

### **DPHI Chief Engineer comments**

- The Department's Chief Engineer supports, in principle, the proposal; However, the proposal is a significant shift in the nature of site works (5ha to 30ha):
- The Chief Engineer supports Council submission
- Submission of plans should be made under the subject modification application