



Section 4.55(1A) Amended Modification Report

Attachment 3 Concept Plan Approval

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

Application made by:	Project 28 Pty Ltd (a subsidiary within the Leda group of companies)
Application made to:	Minister for Planning
Project Application Number:	06_0318
On land comprising:	Kings Forest, Kingscliff 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)
Local Government Area	Tweed Shire Council
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.
Type of determination:	Concept Plan
Determination made on:	19 August 2010
Date approval is liable to lapse:	5 years from the date of determination

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
MPS 21 42 SK 102h		Concept Plan Kings Forest	December 2009
Figure 5 Revised Vegetation Management Plan		Koala Tree Planting Plan	7 August 2009
Figure 2A		Heath Regeneration and Revegetation Areas	22 March 2010
MPS 2142 SK 105f		Precinct Plan, Kings Forest	August 2009
1056-RD19	A	Kings Forest Cadastre Plan	4 March 2008 December 2009
01	A B	Revised Concept Plan	21 August 2012 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 5 December 2013
05	A B	Revised Open Space Network	21 August 2012 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 Precinct 1 & 5 Buffer Management Plan	-	Proposed Compensatory Habitat	15 October 2012
Figure 10L of Precinct 1 & 5 Buffer 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 Cudgen 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 Protection 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~~ OEHL, 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 750th 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 1750th lot, 2750th lot, and 3,750th 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.