



+ MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06_0318 (MOD 3)

PROPOSED RESIDENTIAL DEVELOPMENT

At Kings Forest, Tweed Coast Road, Kingscliff

• Prepared For: Project 28 Pty Ltd

• Prepared by: Darryl Anderson Consulting Pty Ltd

• December 2013

TABLE OF CONTENTS

1.0	INTRODUCTION	3
2.0	CONCEPT PLAN APPROVAL NO. 06_0318	3
3.0	CONSULTATIONS	3
4.0	ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS	4
5.0	PROPOSED MODIFICATIONS	4
6.0	ENVIRONMENTAL ASSESSMENT	11
7.0	CONCLUSION	11

ANNEXURES

ANNEXURE A Concept Plan Approval No. 06-0318 (Mod 2), Dated 11 August 2013

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06_0318 (MOD 3)

PROPOSED RESIDENTIAL DEVELOPMENT AT KINGS FOREST, KINGSCLIFF

1.0 INTRODUCTION

Project 28 Pty Ltd (the owner of the land) has commissioned Darryl Anderson Consulting Pty Ltd to prepare an application for modification of Concept Plan Approval No. 06_0318 which relates to a residential development for approximately 4500 dwellings. This Modification Application (Mod 3) seeks minor amendments of an administrative or housekeeping nature to various conditions.

2.0 CONCEPT PLAN APPROVAL NO. 06_0318

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.

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

On 11 August 2013, the Concept Plan Approval was further modified (Mod 2) in conjunction with the approval of the Kings Forest Stage 1 Project Application No. 08_0194. A copy of Mod 2 is attached at **Annexure A**.

This Modification Application (Mod 3) seeks to make minor modifications to various conditions incorporated into the approval by way of Mod 2.

3.0 CONSULTATIONS

On 29 November 2013, a meeting was held between Mr Chris Wilson, Ms Sally Munk and Mr Ray Lawlor of the Department of Planning and Infrastructure and Mr Reg Van Rij, Mr Michael Geale and Mr Darryl Anderson representing the applicant, Project 28 Pty Ltd during which the proposed amended conditions were discussed. In summary, Departmental Officers advised that the proposed modifications appeared to be generally acceptable but the Department would consider, subject to further justification being provided for the proposed modifications in the formal application.

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

4.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS

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

"Modification of Minister's approval

75W

(1) *In this section:*

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

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

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

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

5.0 PROPOSED MODIFICATIONS

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

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
SCHEDULE 1		
<p>Concept Approval: 06_0318 granted by the Minister for Planning on 19 August 2010</p> <p>For the following: Residential subdivision, Kings Forest, Tweed LGA.</p> <p>Modification: Mod 2 06_0318: The modification includes the following:</p> <ul style="list-style-type: none"> ♦ amendments to term A2 of the approval amending the approved concept plan drawings ♦ amendments to term B4 of the approval requiring a new east-west wildlife corridor ♦ a new term of approval requiring a revised plan of land dedication ♦ a new term of approval that modifies the revised Development Code ♦ a new term of approval requiring the Proponent to implement all management and maintenance activities in the environmental management plans in perpetuity ♦ a new term of approval requiring environmental auditing and reporting on all environmental lands ♦ a new future environmental assessment requirement requiring further traffic assessment for the future upgrades to the Tweed Coast Road and Kings Forest Parkway intersection ♦ new future environmental assessment requirements regarding the embellishment and dedication of casual and structured open space ♦ a new future environmental assessment requirement requiring a Rehabilitation Plan for Blacks Creek ♦ a new future environmental assessment requirement requiring a management plan for the new east-west wildlife corridor ♦ a new future environmental assessment requirement requiring all future development applications for subdivision to provide details of proposed land dedications to Tweed Shire Council 		
SCHEDULE 2		
The above approval is modified as follows:		

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
SCHEDULE 1		
PART A – TABLE 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 388 DP 13727, Lot 1 DP 129737, Lot 1 DP 781633 and Lot 7 DP 875447	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 388 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).	The Concept Plan Map (RPS, Plan 01, Rev A, 21 August 2012) applies to the former roads. As the roads have now been closed and are owned by Project 28 Pty Ltd, it is proposed that they be included in the description of the land to which the Concept Plan applies.
9) Immediately after Term A4 add new Term A5 as follows: 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 unless works the subject of any related application are physically commenced, on or before that lapse date. The Director-General may extend this lapse date if the Proponent demonstrates to the satisfaction of the Director-General that the project remains current, appropriate and reflective of the best use of the site at the date the approval would otherwise lapse.	9) Immediately after Term A4 add new Term A5 as follows: In order that the approval remains relevant to the planning intent for the area, the approval shall lapse at the end of 2016 after the determination date of this approval unless works the subject of any related application are physically commenced, on or before that lapse date. The Director-General may extend this lapse date if the Proponent demonstrates to the satisfaction of the Director-General that the project remains current, appropriate and reflective of the best use of the site at the date the approval would otherwise lapse.	The original Concept Plan was approved on 19 August 2010, Mod 1 was approved on 22 December 2010 and Mod 2 was approved on 11 August 2013. Based on Term A5, the Concept Plan will lapse on 19 August 2015. Given the delays in obtaining Project Approval No. 08_0194 and as EPBC Act approvals have not been obtained to date and there are a number of complex and prescriptive prerequisite conditions to be complied with under the Project Approval before work can commence, it is considered that the proposed condition is reasonable and appropriate to ensure that the Concept Plan remains in force in perpetuity.

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
		During consultations Departmental Officers advised that they would prefer to extend the lapse date to say the end of 2016.
PART C – DEFINITIONS		
15) Amend term C2 as follows:		
C2 Management Plans Delete the first two sentences of term C2 and replace with new words as follows: “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.	C2 Management Plans Delete the first two sentences of term C2 and replace with new words as follows: “All future applications are to include precinct-specific management plans providing details on timelines for implementation of recommended works including maintenance periods and measurable performance and agreed completion 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 a new plan to be prepared if an application relies on a plan that was included with an earlier application relating to the same precinct.	To rationalise and clarify the condition. During consultations Departmental Officers generally supported the proposed modifications but requested further consideration of the final paragraph. It is considered that the final paragraph should be retained because if a DA is lodged for, say, a minor boundary adjustment a new plan should not be needed.
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.	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 prior to the lodgement of the relevant development application for each stage.”	Final plans are to be prepared in consultation with Council and endorsed by the Director-General prior to the lodgement of the relevant development application for each stage.”	

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
19) Amend term C15 as follows:		
C15 Open Space After term C15(1) insert new clauses (2), (3), (4) and (5) as follows:		
(2) Unless otherwise approved by the Director-General, 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 the 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.	(2) Unless otherwise approved by the Director-General, 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 the 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.	The amendments are required to clarify that the thresholds are only triggered by residential lots.

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
	<p>In this clause of term C15 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:</p> <p>(a) to be dedicated or otherwise transferred to a public authority;</p> <p>(b) for any public utility undertaking (within the meaning of the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> as at the date of this approval);</p> <p>(c) to be association property within the meaning of the <i>Community Land Development Act 1989</i>; or</p> <p>(d) for open space, recreation, environmental conservation, drainage or riparian land management; or</p> <p>(e) a lot which is intended to be further subdivided, by or on behalf of the Proponent.</p>	
(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.		
<p>(4) Embellishment and dedication of the first 4ha of the permanent sports field facility must be accompanied by the provision of:</p> <p>(a) A sealed public access road (rural cross section with swale drainage as a minimum standard)</p> <p>(b) Water and sewerage</p> <p>(c) Electricity and telecommunications</p>		

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

TABLE 1 - REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
(5) Prior to the approval of any development for Kings Forest 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.		

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165
Town Planning & Development Consultants

6.0 ENVIRONMENTAL ASSESSMENT

Modification of the consent as proposed involves minor changes to conditions of an administrative or housekeeping nature. The proposed modifications do not change the details of the proposal in terms of scale, layout and yields.

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

7.0 CONCLUSION

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

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

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

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants



ANNEXURE A Concept Plan Approval No. 06-0318 (Mod 2), Dated 11 August 2013

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

Modification of Concept Plan No. 06_0318 (Mod 3)
Project No: KFOR 13/125 – December 2013

Kings Forest
Tweed Coast Road, Kingscliff