

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

The Planning Assessment Commission of New South Wales (the Commission), under the instrument of delegation dated 20 May 2011, approve the modification of the concept application referred to in schedule 1, subject to the conditions in schedule 2.



Member of the Commission



Member of the Commission

Sydney

11 August 2013

SCHEDULE 1

Concept Approval:

06_0318 granted by the Minister for Planning on 19 August 2010

For the following:

Residential subdivision, Kings Forest, Tweed LGA.

Modification:

Mod 2 06_0318: The modification includes the following:

- 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:

SCHEDULE 1

PART A – TABLE

- 1) Delete the words “Date approval is liable to lapse: 5 years from the date of determination”

PART C – DEFINITIONS

- 2) Immediately after the definition for “Council” insert new definitions as follows:

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.

- 3) Immediately after the definition for “Environmental Assessment” insert a new definition as follows:

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

- 4) Immediately after the definition for “Minister” insert a new definition as follows:

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.

- 5) Immediately after the definition for “Preferred Project Report” insert a new definition as follows:

Preferred Project Report 2012 means the Proponent's preferred project report lodged for project application MP08_0194 and dated October 2012.

SCHEDULE 2

PART A

- 6) Delete term A2 and replace with new term A2 as follows:

A2 Project in Accordance with Plans

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

Design, Landscape and Survey Drawings			
Plan No.	Revision	Name of Plan	Date
1056-RD19	A	Kings Forest Cadastre Plan	4 March 2008
01	A	Revised Concept Plan	21 August 2012
02	A	Scope of Works	21 August 2012
03	A	Site Analysis	23 August 2012
04	A	Precinct Plan	21 August 2012
05	A	Open Space Network	21 August 2012
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:

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

7) Omit point 9) in term A3 and instead insert a new point 9) as follows:

9) Kings Forest Development Code as amended by condition B6.

8) Immediately after point 9) in term A3, adding points 10) and 11) as follows:

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.

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.

PART B

10) Amend B2:

B2 Annual Flora and Fauna Monitoring Report

Amend term B2 by replacing the reference to "DECCW" with "OEH"

11) Delete term B3 and replace with new term B3 as follows:

B3 Further Protection of Heathland

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.

12) Delete term B4 and replace with new term B4 as follows:

B4 East-West Wildlife Corridors

- 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", at 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 within 12 months of the date of the modified approval (06_0318 Mod 2) 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.

13) Immediately after term B4, insert new terms B5, B6 and B7 as follows:

B5 *Dedication of Land to Tweed Shire Council*

- c) 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 for approval within 12 months of the date of the first project approval (MP08_0194) 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: 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.

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 within 3 months of the date of this approval 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 from 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.

B8 *Director-General 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, the matter is to be referred to the Director-General for resolution. All areas of disagreement and the position of each party are to be clearly stated to facilitate a resolution.

PART C

14) Amend term C1 as follows:

C1 *Plan of Development*

a) Delete term C1(2) and replace with new term C1(2) as follows:

(2) A notation on 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.

Amend term C1(4) by deleting the words "Fill and"

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.

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."

16) Delete term C3 and replace with new term C3 as follows:

C3 *Dedication of Land to OEH*

Prior to the release of the first subdivision certificate for the project, or as otherwise determined by the Director-General (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.

17) Amend term C6 as follows:

C6 *Traffic Assessment*

Immediately after Term C6(1) inserting new point (2) as follows:

(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.

18) Amend term C13 as follows:

C13 Geotechnical Assessments

Delete the first sentence in term C13 and insert a new sentence as follows:

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.

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.
- (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 permanent 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 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.

20) Immediately after term C26, insert new terms C27, C28, C29 and C30 as follows:

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 (at the request of the Proponent) the Proponent must submit to the Director-General 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.

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.

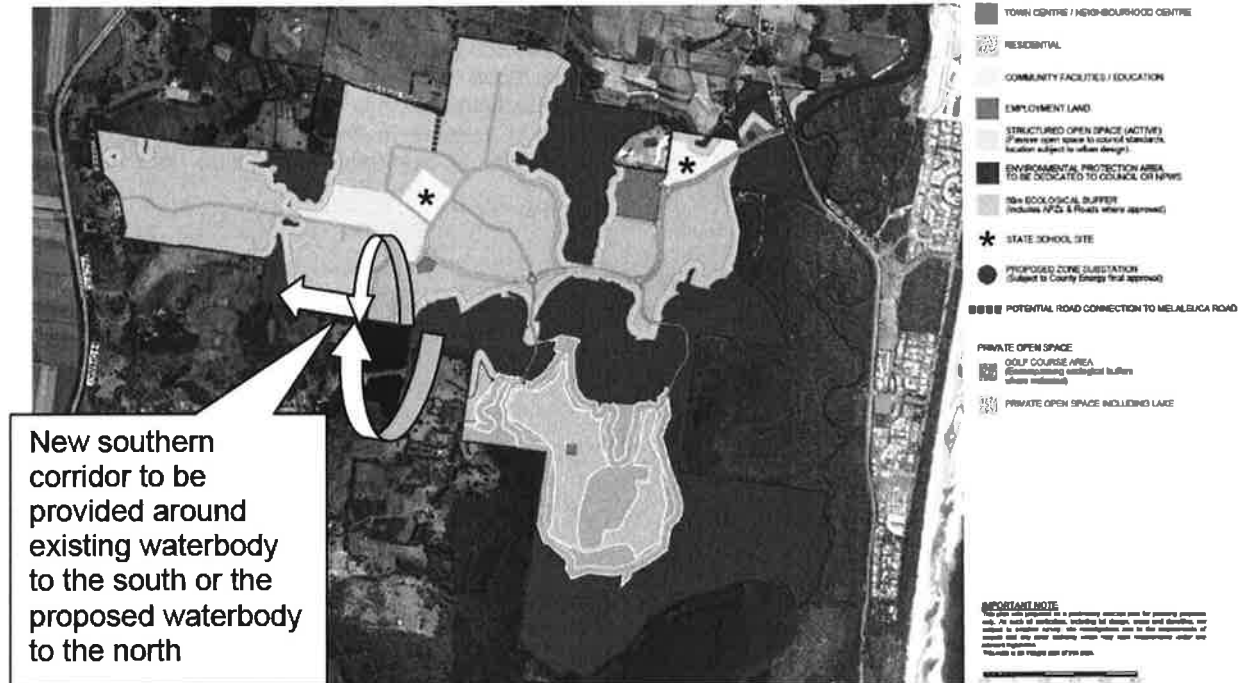
C30 *Affordable Housing*

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.

ATTACHMENT A

EAST-WEST WILDLIFE CORRIDOR



Potential route of new southern east-west corridor, as required by modified term B4 of the concept plan approval