

+ MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06_0318 (MOD 4)

PROPOSED RESIDENTIAL DEVELOPMENT

At Kings Forest, Tweed Coast Road, Kingscliff

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	♦ Revised Precinct Plan 04, Rev B – RPS, 5 December 2013
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MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06_0318 (MOD 4)

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 4) seeks general amendments to various conditions of the Approval.

A separate Modification Application has been submitted for general amendments to Project Approval No. MP08_0194 (MOD 2) for Kings Forest Stage 1 which includes some definitions and conditions to achieve consistency with the proposed amended Concept Plan.

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**.

A separate Modification Application (Mod 3) has been lodged to make minor modifications to various conditions incorporated into the approval by way of Mod 2.

This Modification Application (Mod 4) seeks to make general 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.

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In summary, Departmental Officers advised that the proposed modifications would be considered, subject to further justification being provided in the formal application. Consultations with Tweed Shire Council and relevant State Agencies will also be undertaken by the Department.

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

5.1 Land Proposed to be Dedicated to the Office of Environment and Heritage

The definition currently refers to this land as "offset area".

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Reference to an "offset area" is a misnomer as at no stage has Project 28 indicated that the Future OEH Land was to be dedicated as some form of offset or compensation for areas to be developed. The future OEH land was always offered by Project 28 on a voluntary basis. The changes to the definition reflect this position.

In view of the above, it is proposed to change the term "*offset area*" to "*future OEH land*".

As a consequence of this change, Conditions B7 and C3 are proposed to be amended by deleting the term "*offset area*" and inserting the new term "*future OEH land*".

Changes to the definitions in Project Approval No. MP08_0194 and relevant conditions are also proposed to achieve consistency with the Concept Plan.

5.2 Land Proposed to be Dedicated to Tweed Shire Council

The definition currently refers to the land as "*land to be dedicated to Council in the future*".

The current term implies that the land must be dedicated to Council however, dedication is subject to reaching an appropriate agreement with Council and this is not reflected in the current definition.

The new term "*potential Council land*" will also make the provision more readable and will require the adoption of a new plan with a new title "*Potential Council Land Plan with Work Areas*" (see **Annexure B**).

The requested modified condition inserting the new definition of "*Potential Council Land Plan with Work Areas*" means the plan with that title prepared by Landsurv dated 6 December 2013, Revision E, which is contained at **Annexure B** of this report.

As a consequence of this change, Conditions B5 and C29 are proposed to be amended by deleting the term "*land to be dedicated to Council in the future*" and inserting the new term "*potential Council land with Work Areas*".

Changes to the definitions in Project Approval No. MP08_0194 and relevant conditions are also proposed to achieve consistency with the Concept Plan.

5.3 Condition A2 – Project in Accordance with Plans

Plan No.s 01, 04 and 05 inadvertently include reference to "*environmental protection area to be dedicated to Council or NPWS*". Potential dedication of land to Council and the OEH are appropriately addressed in the amended definitions and amended Conditions B5, B7, C3 and C29. Therefore, Plan No.s 01, 04 and 05 have been amended by deleting the reference "*to be dedicated to Council or NPWS*". The requested modified condition calls up the amended plans at **Annexure C**.

5.4 Condition B8 – Director General as Moderator

The last sentence has been inserted into Condition B8 to make it clear that the Director General does not have the power to impose a "resolution" on Project 28 and the Council under Term B8. This is on the basis that any agreement should be at the sole discretion of Council and Project 28 Pty Ltd.

The purpose of this condition is to remove any doubt and ambiguity which may exist in the current condition.

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5.5 Condition C30 – Affordable Housing

The revised Statement of Commitment No. 7.0 (Affordable Housing) in respect of MP08_0194 is conditional upon a successful application for NRAS funding. This has been Project 28's position from the outset of the Kings Forest project and therefore ought to be reflected in amended Condition C30.

Statement of Commitments No. 7.0 forming part of Major Project Approval No. 08_0194 is in the following terms:

"Subject to a successful application for NRAS funding, Project 28 will:

- *Provide between 1% and 3% of housing (45-135 dwellings) within the Kings Forest site as affordable housing for rent for a minimum of 10 years;*
- *Provide dwellings at a minimum 20% discounted market rent to eligible low and moderate income households for the entire 10 year period, in keeping with NRAS requirements;*
- *Prioritise smaller dwellings as affordable rental dwellings to meet the highest need group; and*
- *Locate affordable housing in Precinct 7 or other Precincts in close proximity to the proposed Town Centres or other Precincts as deemed suitable to provide access to services and transport for high need users."*

Condition C30 is proposed to be amended by including an additional provision confirming that the provision of affordable housing is subject to NRAS funding.

The following table (Table 1) identifies the existing conditions, the requested modified conditions and reasons for the modification.

TABLE 1 – REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
SCHEDULE 1		
PART C – DEFINITIONS		
<p>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.</p> <p>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.</p>	<p>Potential Council Land Plan With Work Areas means the plan with that title prepared by Landsurv dated 06.12.13, Revision E.</p> <p>Potential Council Land means the land identified as ‘potential Council land’ on the Potential Council Land Plan.</p>	<p>Potential Council Land is simply an expression that makes the provisions that use the definition more readable. This will involve the adoption of a new plan with a different title than the current plan. The plan will be titled Potential Council Land (see Annexure B).</p> <p>It also clarifies that dedication of the potential Council land has is subject to reaching an appropriate agreement with Council and this is not reflected in the current definition.</p>
<p>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.</p>	<p>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.</p>	<p>Reference to an “offset area” is a misnomer as at no stage has Project 28 indicated that the Future OEH Land was to be dedicated as some form of offset or compensation for areas to be developed. The future OEH land was always offered by Project 28 on a voluntary basis. The changes to the definition reflect this position.</p>

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TABLE 1 – REQUESTED MODIFIED CONDITIONS																																																			
PAC CONDITION		REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION																																																
SCHEDULE 2																																																			
A2 Project in Accordance with Plans																																																			
The project will be undertaken generally in accordance with the following drawings:																																																			
<table border="1"> <thead> <tr> <th colspan="4">Design, Landscape and Survey Drawings</th></tr> <tr> <th>Plan No.</th><th>Revision</th><th>Name of Plan</th><th>Date</th></tr> </thead> <tbody> <tr> <td>1056-RD19</td><td>A</td><td>Kings Forest Cadastre Plan</td><td>4 March 2008</td></tr> <tr> <td>01</td><td>A</td><td>Revised Concept Plan</td><td>21 August 2012</td></tr> <tr> <td>02</td><td>A</td><td>Scope of Works</td><td>21 August 2012</td></tr> <tr> <td>03</td><td>A</td><td>Site Analysis</td><td>23 August 2012</td></tr> <tr> <td>04</td><td>A</td><td>Precinct Plan</td><td>21 August 2012</td></tr> <tr> <td>05</td><td>A</td><td>Open Space Network</td><td>21 August 2012</td></tr> </tbody> </table>		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	<p>Delete from the table Plan No.s 01, 04 and 05 and insert the following amended Plan References:</p> <table> <thead> <tr> <th><u>Plan No.</u></th><th><u>Revision</u></th><th><u>Name of Plan</u></th><th><u>Date</u></th></tr> </thead> <tbody> <tr> <td>01</td><td>B</td><td>Revised Concept Plan</td><td>05.12.13</td></tr> <tr> <td>04</td><td>B</td><td>Revised Precinct Plan</td><td>05.12.13</td></tr> <tr> <td>05</td><td>B</td><td>Revised Open Space Network</td><td>05.12.13</td></tr> </tbody> </table>	<u>Plan No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Date</u>	01	B	Revised Concept Plan	05.12.13	04	B	Revised Precinct Plan	05.12.13	05	B	Revised Open Space Network	05.12.13	<p>The reference to the “Environmental Protection Area to be dedicated to Council or NPWS” has been inadvertently included on the three plans 01, 04 and 05. Potential dedication of land to Council and to OEH are appropriately addressed in the amended definitions and amended Conditions B5 and C3.</p> <p>Plan No.s 01, 04 and 05 have been amended by deleting the reference “to be dedicated to Council or NPWS” (see Annexure C).</p>
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TABLE 1 – REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
<p>B5 Dedication of Land to Tweed Shire Council</p> <p>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.</p> <p>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 lodgement of the first development application for the project or prior to the issue of the first construction certificate for the project whichever occurs first.</p> <p>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.</p>	<p>B5 Dedication of Land to Tweed Shire Council</p> <p>The Proponent and the Council may (but are not obliged to) enter into a Dedication Agreement in relation to the Potential Council Land on such terms as may be agreed between Council and the Proponent. If there is no Agreement the Land will not be dedicated to Council and Term B7 will continue to apply. For avoidance of doubt, term B8 (or any dispute resolution process under a development consent or project approval) does not apply in this situation.</p>	<p>The main purpose of this amended condition is to clarify that Project 28 Pty Ltd is under no obligation to dedicate the Potential Council Land to Council and that it is a matter for the company and Council to negotiate and decide whether the land will actually be dedicated and if so what terms will apply to that dedication. This is consistent with Project 28's position from the commencement of the planning process that it is not committing to dedication of the land to Council.</p>
<p>B7 – Implementation of Environmental Management Plans</p> <p>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 OEHL and/or Tweed Shire Council regarding the dedication of that land.</p>	<p>B7 – Implementation of Environmental Management Plans</p> <p>1) The Proponent is responsible for the management of all potential Council land and the future OEHL land 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 OEHL and/or Tweed Shire Council regarding the dedication of that land.</p>	<p>Amendment of Condition B7 is required to achieve consistency with the new definitions.</p>

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TABLE 1 – REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
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.	B8 Director-General as Moderator 1) 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. This condition does not allow the Director-General to give approval or make agreement in lieu of the Proponent.	The last sentence has been inserted into Condition B8 to make it clear that the Director General does not have the power to impose a “resolution” on Project 28 and the Council under Term B8. This is on the basis that any agreement should be at the sole discretion of Council and Project 28 Pty Ltd.
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.	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 the OEH of the Future OEH Land being no less than approximately 150ha , as an 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 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 and weed management plans. The funding should be sufficient to ensure actions within the amended plans relevant to the new additions are able to be completed.	This condition is proposed to be amended to reflect the amended definition of “offset area” and to clarify the area of land potentially to be dedicated.

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TABLE 1 – REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
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.	This provision, arguably, could be deleted altogether because a new plan will be submitted that complies with Term B5(c). The only benefit in retaining the term is that it alerts future consent authorities to the issue. The amended textual changes merely relate to the changes in the defined terms and promote greater clarity.
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. The provision of affordable housing is subject to the successful application for National Rental Affordable Housing Scheme (NRAS) funding.	The revised Statement of Commitment No. 7.0 (Affordable Housing) in respect of MP08_0194 is conditional upon a successful application for NRAS funding. This has been Project 28's position from the outset of the Kings Forest project and therefore ought to be reflected in amended Condition C30.

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6.0 ENVIRONMENTAL ASSESSMENT

Modification of the consent as proposed involves general changes to conditions to enable the project to proceed in an efficient, viable and timely manner. 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.

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

Darryl Anderson Consulting Pty Ltd

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Modification of Major Project No. 06_0318 (Mod 4)
Project No: KFOR 13/119 – December 2013 (Amended January 2014)

Kings Forest
Tweed Coast Road, Kingscliff

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.

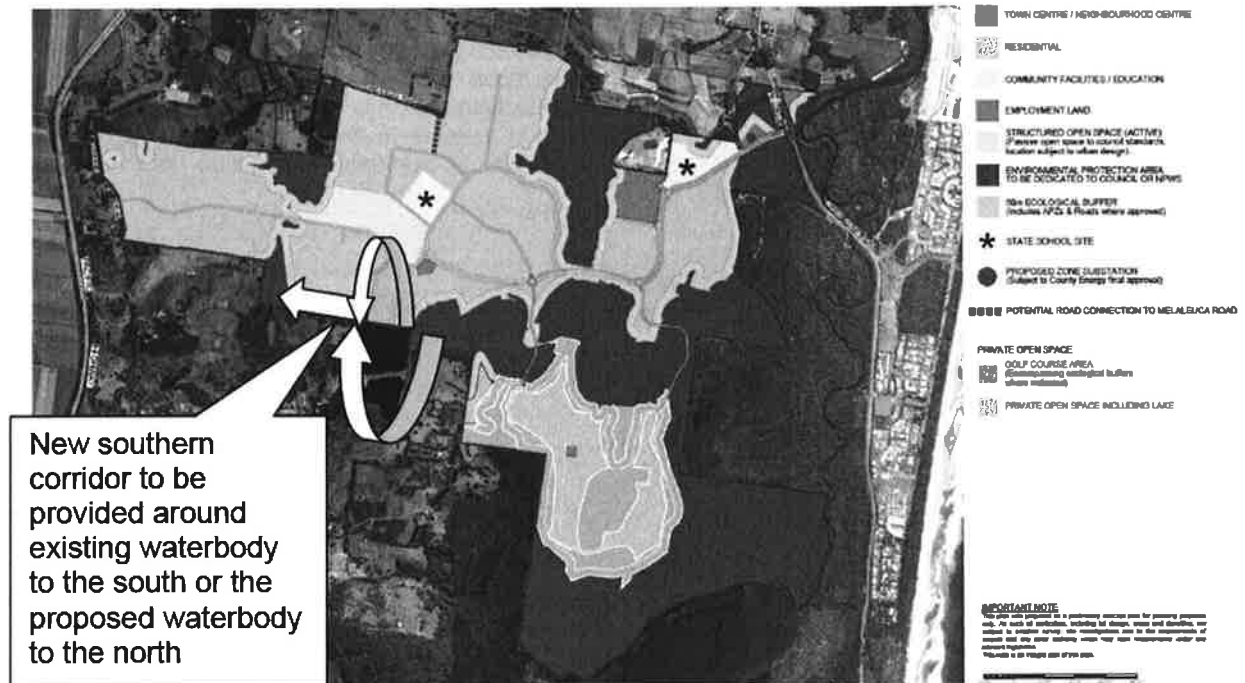
C30 *Affordable Housing*

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.

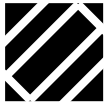
Note: The provision of affordable housing may be subject to the successful application for National Rental Affordable Housing Scheme (NRAS) funding.

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



ANNEXURE B Potential Council Land Plan With Work Areas, Rev E – Landsurv, 6 December 2013

Darryl Anderson Consulting Pty Ltd

A.C.N. 093 157 165

Town Planning & Development Consultants

Modification of Major Project No. 06_0318 (Mod 4)
Project No: KFOR 13/119 – December 2013 (Amended January 2014)

Kings Forest
Tweed Coast Road, Kingscliff

PRELIM ON

INDUSTRIAL LAND

NOT FOR DEVELOPMENT

PROPOSED

Legend:

- Industrial Land (Orange)
- Not for Development (Blue)
- Proposed (Pink)

Map Labels:

- Regions:** 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14
- Roads:** DURABAH ROAD, MELALEUCA ROAD, MCCOLLUMS ROAD, TWED COAST ROAD, CUDGEN CREEK ROAD
- Water Bodies:** CUDGEN LAKE, CUDGEN CREEK
- Parcels:**
 - P1 (1.51 ha)
 - P1 (3.67 ha)
 - P2 (2.67 ha)
 - P2 (2.01 ha)
 - P3 (5150 m²)
 - P5 (STAGES 1-10) (3.81 ha)
 - P5 (STAGE 10) (2.17 ha)
 - P5 (STAGE 10) (3080 m²)
 - P7 & P8 (44.75 ha)
 - P11 (1390 m²)
 - P11 (620 m²)
 - P11 (1.59 ha)
 - P11 (1.28 ha)
 - P11 (13.07 ha)
 - P11 (535 m²)
 - P11 (4220 m²)
 - P11 (6.03 ha)
 - GC (27.79 ha)
 - GC (2.96 ha)
 - GC (49.66 ha)
 - B50 (1.63 ha)
 - B50 (25.82 ha)
 - B50 (2.64 ha)

-  DRAINAGE RESERVE
APPROX TOTAL AREA 3.81 ha
(PERIMETER LENGTH 3295m)
-  B50 - 50m ECOLOGICAL BUFFERS
APPROX TOTAL AREA 49.07 ha
(PERIMETER LENGTH 19545m)
-  CONSERVATION AREA
APPROX TOTAL AREA 153 ha
(PERIMETER LENGTH 20730m)



LEVEL DATUM	SCALE 1: 20000
DATE OF SURVEY	REVISION E
DATE 06.12.13	SHEET 1 OF 1
DRAWN GMB	JOB No
CHECKED DVE	34860-2
CAD FILE No. 34860-2 DEDICATE	

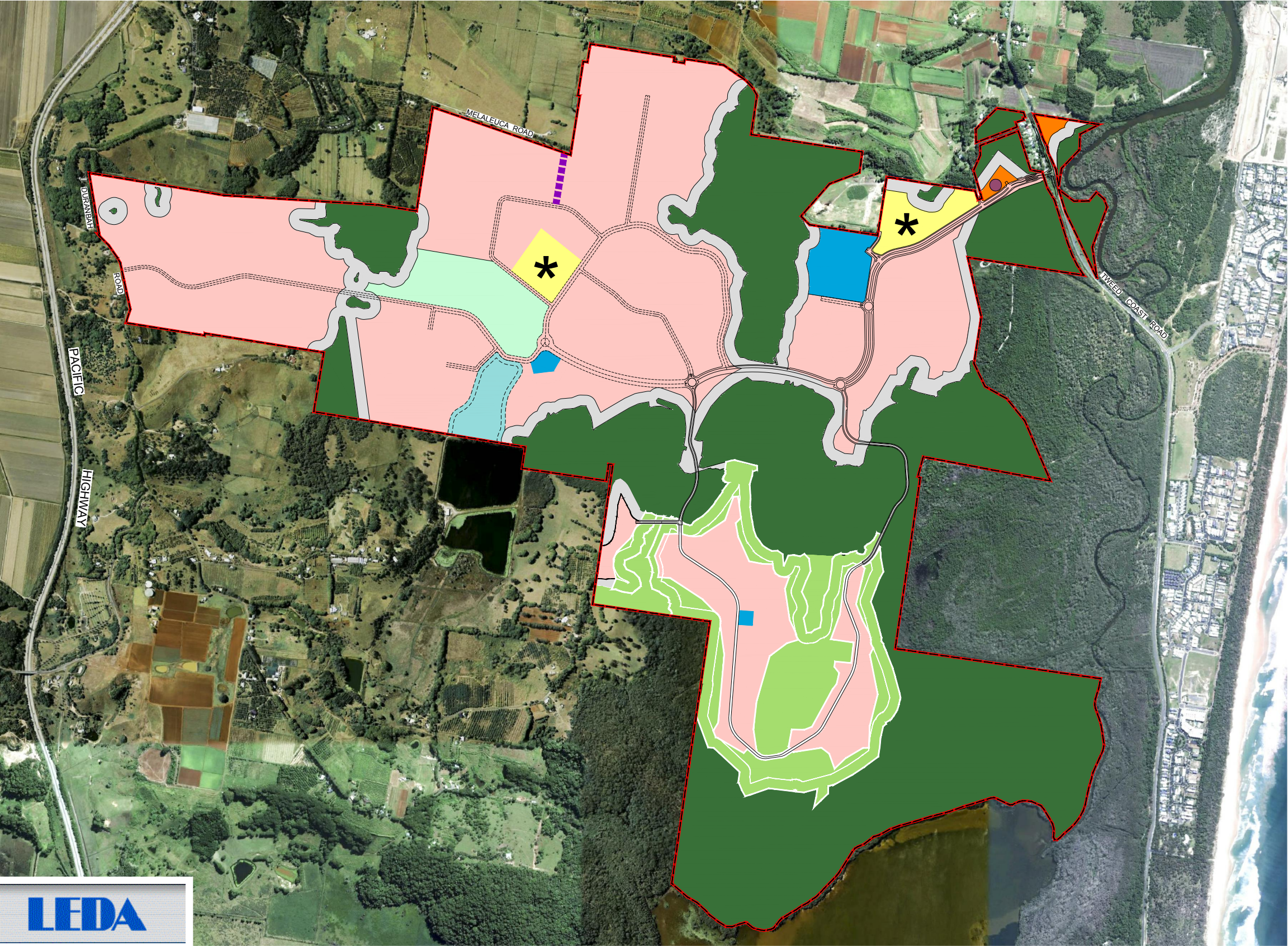


ANNEXURE C Revised Plans

- Revised Concept Plan 01, Rev B – RPS, 5 December 2013
- Revised Precinct Plan 04, Rev B – RPS, 5 December 2013
- Revised Open Space Network Plan 05, Rev B – RPS, 5 December 2013

Darryl Anderson Consulting Pty Ltd

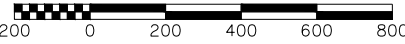
A.C.N. 093 157 165
Town Planning & Development Consultants



- TOWN CENTRE / NEIGHBOURHOOD CENTRE
- RESIDENTIAL
- COMMUNITY FACILITIES / EDUCATION
- EMPLOYMENT LAND
- STRUCTURED OPEN SPACE (ACTIVE)
(Passive open space to council standards, location subject to urban design).
- ENVIRONMENTAL PROTECTION AREA
- 50m ECOLOGICAL BUFFER
(Includes APZs & Roads where approved)
- * STATE SCHOOL SITE
- PROPOSED ZONE SUBSTATION
(Subject to County Energy final approval)
- POTENTIAL ROAD CONNECTION TO MELALEUCA ROAD

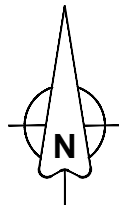
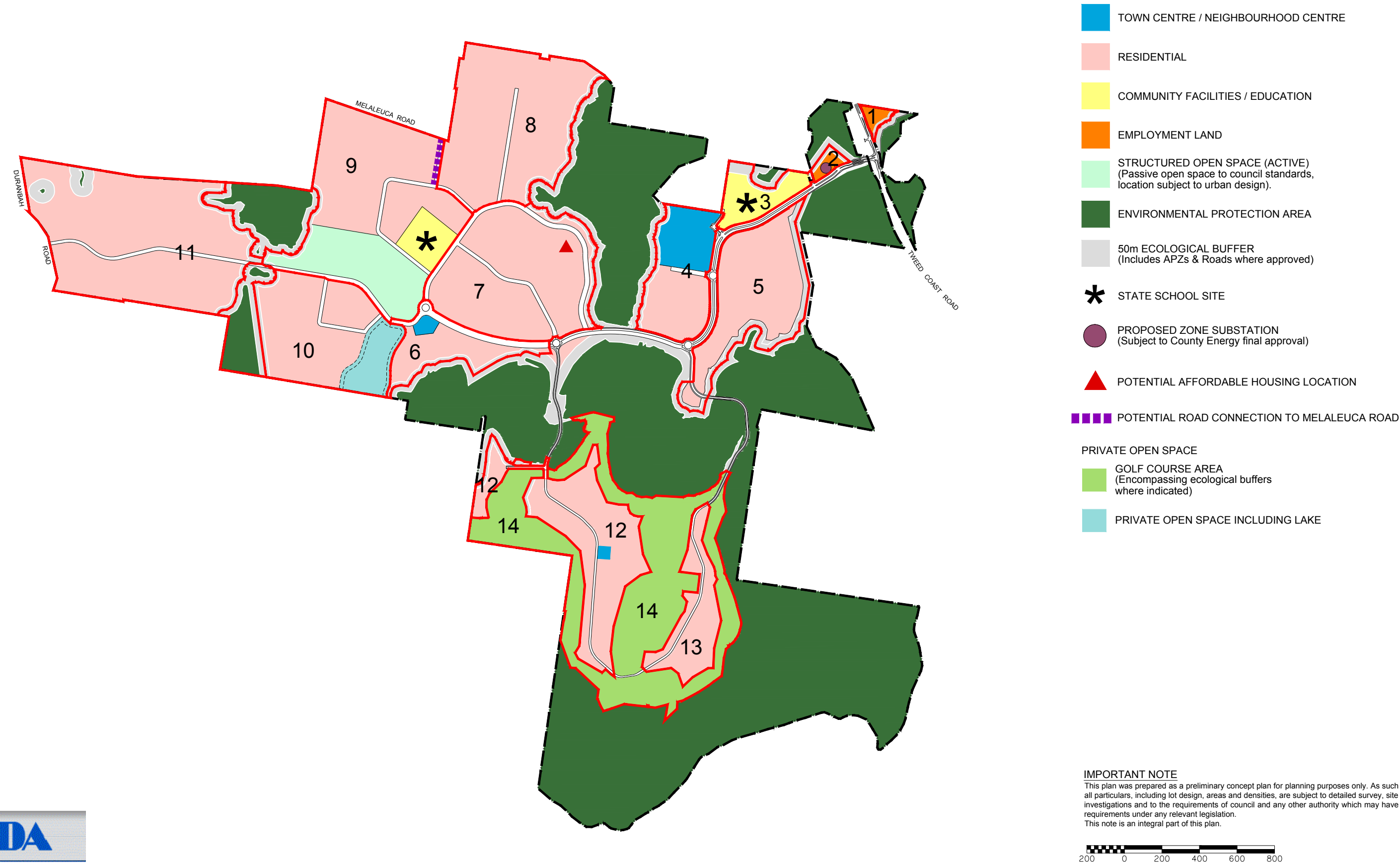
- PRIVATE OPEN SPACE
- GOLF COURSE AREA
(Encompassing ecological buffers where indicated)
- PRIVATE OPEN SPACE INCLUDING LAKE

IMPORTANT NOTE
This plan was prepared as a preliminary concept plan for planning purposes only. As such all particulars, including lot design, areas and densities, are subject to detailed survey, site investigations and to the requirements of council and any other authority which may have requirements under any relevant legislation.
This note is an integral part of this plan.



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	Date 5 DECEMBER 2013		No.	DETAILS	DATE	Init.			
	Surveyed -		A	REVISION	21.8.12	BJB			
	Drafted BJB		B	REVISION	5.12.13	BJB			
	Parish CUDGEN		C						
County ROUS		SCALE: 1:20000 (A3)	D						
			E						
			F						
			G						
			I						

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CLIENT	PROJECT 28 Pty Ltd
Date	5 DECEMBER 2013
Surveyed	-
Drafted	BJB
Parish	CUDGEN
County	ROUS

PLAN

KINGS FOREST STAGE 1 PROJECT APPLICATION PRECINCT PLAN

SCALE: 1:20000 (A3)

REVISIONS

No.	DETAILS	DATE	Init.
A	REVISION	21.8.12	BJB
B	REVISION	5.12.13	BJB
C			
D			
E			
F			
G			
I			



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Local Authority	DWG Ref	PLAN No.
Tweed S.C.	113691-PSP-4b(PRECINCT PLAN)	04

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This note is an integral part of this plan.



- TOWN CENTRE / NEIGHBOURHOOD CENTRE
- RESIDENTIAL
- COMMUNITY FACILITIES / EDUCATION
- EMPLOYMENT LAND
- STRUCTURED OPEN SPACE (ACTIVE)
(Passive open space to council standards, location subject to urban design).
- ENVIRONMENTAL PROTECTION AREA
- 50m ECOLOGICAL BUFFER
(Includes APZs & Roads where approved)
- PRIVATE OPEN SPACE
 - GOLF COURSE AREA
(Encompassing ecological buffers where indicated)
 - PRIVATE OPEN SPACE INCLUDING LAKE
- INDICATIVE LOCAL PARK
(SUBJECT TO DETAILED URBAN DESIGN)
- 400m WALKABILITY
- NEIGHBOURHOOD PARK
- 800m WALKABILITY
- INDICATIVE INTERNAL WALKWAYS / CYCLEWAYS
- LINK TO EXISTING CYCLEWAY NETWORK
- EXISTING CYCLEWAY NETWORK
- OVALS
INDICATIVE LOCATION ONLY
(SUBJECT TO DETAILED DESIGN)
- POTENTIAL ROAD CONNECTION TO MELALEUCA ROAD

IMPORTANT NOTE
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	Date 5 DECEMBER 2013		No.	DETAILS	DATE	Init.			
	Surveyed -		A	REVISION	21.8.12	BJB			
	Drafted BJB		B	REVISION	5.12.13	BJB			
	Parish CUDGEN		C						
	County ROUS		D						
SCALE: 1:20000 (A3)			E				DWG Ref 113691-PSP-4b(OPEN SPACE NETWORK)		
			F						
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			I						