

Modification of Minister's Approval

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

As delegate of the Minister for Planning under delegation executed on 14 September 2011, we the Planning Assessment Commission of New South Wales (the Commission) approve the modification of the Concept Plan referred to in Schedule 1, subject to the conditions in Schedule 2.



Garry West
Member of the Commission

Sydney



Jan Murrell
Member of the Commission

20 November 2014

SCHEDULE 1

Concept Approval:

06_0318 granted by the Minister for Planning and Infrastructure on 19 August 2010, as modified on 22 December 2010 MOD 1, 11 August 2013 MOD 2, 16 May 2014 MOD 3.

Proponent:

Project 28 Pty Ltd

For the following:

Residential subdivision, Kings Forest, Tweed Local Government Area.

Modification:

06_0318 Modification 4 involving:

- Minor amendments to the definitions;
- Amendments to the approved Concept Plan drawings (term A2);
- Amendments to the terms B5, B7, C3 and C29 to reflect amended definitions;
- Amendments to the resolution of disputes and the Secretary as moderator; and
- Amendments to term C30 relating to provision of affordable housing being subject to funding arrangements.

SCHEDULE 2

The above approval is modified as follows:

1. Delete the following definitions in Schedule 1:

Land to be dedicated to Council in the Future;
Council Dedicated Land Plan;
Director-General; and
Offset Area.

And insert the following definitions in Schedule 1 in alphabetical order:

Future OEH Land

means the land identified in the "Plan of Proposed Areas to be Dedicated to NPWS Kings Forest Development" prepared by Landsurv Pty Ltd dated 23 August 2012, Revision C. Note: the dedicated lands may be used as an offset for biodiversity impacts in accordance with the policy applicable from time to time under which offsets for such impacts are assessed.

Potential Council Land Plan

means the plan 'Potential Council Land Plan with Work Areas', prepared by Landsurv dated 6 December 2013, Revision E, as amended in accordance with condition B5.

Potential Council Land

means the lands identified as 'Potential Council Land' on the Potential Council Land Plan.

Secretary

means the Secretary of the Department of Planning and Environment or his/her nominee.

2. Replace all references to 'Director-General' in Schedule 2 with 'Secretary'.

3. In term A2 in Schedule 2 replace Drawing No. 01, 04 and 05 with the following:

A2 Project in Accordance with Plans

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

Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
01	B	Revised Concept Plan	5 December 2013
04	B	Revised Precinct Plan	5 December 2013
05	B	Revised Open Space Network	5 December 2013

4. Replace term B5 in Schedule 2 with the following:

B5 Dedication of Land to Tweed Shire Council

- 1) The Potential Council Land Plan shall be amended to identify each precinct (as shown in term A2, Drawing No. 4 Revised Precinct Plan (Rev B)) and the

associated land to be dedicated to the Council for each precinct. The amended plan is to include a reconciliation table showing each precinct and the corresponding land to be dedicated to the Council. The Potential Council Land Plan shall be amended such that the extent of lands to be dedicated should include any environmental protection areas adjacent to the proposed stage extending to where such areas are intersected by any approved road alignment or adjoin environmental buffers to adjacent stages.

- 2) The amended Potential Council Land Plan shall be reviewed by Council and submitted to the Secretary for approval prior to the issue of the first construction certificate for the project.

Note: If no agreement is reached the Potential Council Land will not be dedicated to Council and term B7 will continue to apply.

5. Replace term B7 1) in Schedule 2 with the following:

B7 Implementation of Environmental Management Plans

- 1) The proponent is responsible for the management of all Potential Council Land and the Future OEH Land for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans from the date of the commencement of the project or at another time directed by the Secretary, until such time that an agreement is reached with OEH and /or Tweed Shire Council regarding the dedication of that land.

Note: For the purpose of this condition, commencement is taken to mean any physical works including clearing vegetation, the use of heavy duty equipment for the purpose of breaking ground for bulk earthworks, or infrastructure for the proposed project.

6. Replace term B8 in Schedule 2 with the following:

B8 Dispute Resolution

In the event that a dispute arises between the proponent and Council or a public authority other than the Department, in relation to a specification or requirement applicable under this consent, the matter may be referred by either party to the Secretary, or if not resolved, to the Minister, whose determination of the dispute shall be final and binding to all parties. For the purpose of this condition, 'public authority' has the same meaning as provided under Section 4 of the EP&A Act.

7. Replace term C3 in Schedule 2 with the following:

C3 Dedication of Land to OEH

Prior to the release of the first subdivision certificate for the project, or as otherwise determined by the Secretary (at the request of the Proponent), the Proponent must provide evidence of an agreement for the dedication by Project 28 Pty Ltd to the OEH of the Future OEH Land being no less than approximately 150ha of land as addition to the Cudgen Nature Reserve.

Such an agreement must outline the proponent's commitment to establish boundary fences and trails to the satisfaction of the OEH prior to the Future OEH Land being added to Cudgen Nature Reserve. The Proponent must ensure suitable funding for the amendment of existing reserve specific fire,

pest, weed and management plans. The funding should be sufficient to ensure actions within the amended plans relevant to the new additions are able to be completed.

8. Replace term C29 in Schedule 2 with the following:

C29 Dedication of Land to Tweed Shire Council

All future development applications for subdivision shall provide details of the Potential Council Land as is relevant to the application concerned in accordance with condition B5 of this approval.

9. Replace term C30 in Schedule 2 with the following:

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.

END OF SECTION