

2 May 2018

Customer Service | 1300 292 872 | (02) 6670 2400

[tsc@tweed.nsw.gov.au](mailto:tsc@tweed.nsw.gov.au)  
[www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au)

Fax (02) 6670 2429  
PO Box 816  
Murwillumbah NSW 2484

Please address all communications  
to the General Manager

ABN: 90 178 732 496

Attention: Anthony Witherdin  
NSW Department of Planning & Infrastructure  
GPO Box 39  
**SYDNEY NSW 2001**

Dear Sir,

**Kings Forest Modifications Lapsing of Consent (MP 08\_0194  
MOD 7 and MP06/0318 MOD 8) No. 86 Melaleuca Road KINGS  
FOREST.**

Apologies for the delay in getting this to you.

Thank you for the opportunity to respond to the latest Modifications lodged by Project 28 Pty Ltd.

It is noted that both the Concept Application (MP06/0318) and Project Application (MP08/0194) are both due to lapse if not lawfully, physically commenced prior to 11 August 2018 and that the current modifications seek to extend this timeframe to 31 December 2019.

Council has been working with the Department and the proponent for many years in response to these applications. The matters involved are complex and require collaboration on all parts. Generally Council is of the view that the proponent should be allocated additional time to enact these consents due to the complexities involved. Furthermore it is not considered in Council's interest for such important applications to lapse.

Therefore there is no objection to the

- modification of MP06/0318 MOD 8 to modify Condition A5; or the
- modification of MP08/0194 MOD 7 to modify Condition A17.

However Council would question the legality of Condition A18 in regard to whether:

- A Construction Certificate is even needed for the preliminary investigative and monitoring work;
- Investigative and monitoring works constitute lawful physical commencement BEFORE all the management plans have been finalised. If it does, it would appear pre-emptive of the finalisation of the environmental management plans on which the consent substantially relies. Council has consistently argued that the environmental management plans need to be approved prior to commencement.

Therefore if the proponent is suggesting that it will take another (say) three years to satisfy all the management plans then Council would prefer the life of the consent is extended beyond December 2019 than to allow commencement before receipt of all of the management plans.

The Department may like to obtain its own legal advice in regards to the two questions raised above.

For your consideration as part of your assessment and determination.

If you have any further questions regarding this matter please contact Council's Team Leader Development Assessment Denise Galle on (02) 6670 2459.

Yours faithfully

**Lindsay McGavin**

Manager Development Assessment and Compliance