

10682

12 November 2010

Mr Sam Haddad  
Director-General  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

Attention: Stuart Withington

Dear Mr Haddad

**MODIFICATION TO MAJOR PROJECT 06\_0318  
KINGS FOREST, KINGSCLIFF**

We refer to the Concept Plan for Kings Forest approved by the Minister on 19 August 2010.

On behalf Project 28 (a subsidiary of the Leda group of companies), we write to request that the Minister (or his delegate) modify the approved Concept Plan for the development of the Kings Forest site at Kingscliff under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as described below. The modification relates to a number of conditions of approval that need to be amended to reflect changes in circumstances and facilitate the preparation of the first project application, as well as to address the proposed statutory treatment of the Kings Forest Development Code.

In accordance with section 245k of the *Environmental Planning and Assessment Regulation 2000*, please find enclosed the fee of \$750 for the assessment of the request.

**1.0 BACKGROUND**

The approved Concept Plan for Kings Forest includes development for approximately 4500 dwellings, a town centre and neighbourhood centres, employment land, community and educational facilities, open space and a golf course, wildlife corridors, roads, and pedestrian and cycle paths.

The Concept Plan was determined by the Minister on 19 August 2010 subject to a series of conditions. Since determination of the Concept Plan it has become evident that a number of conditions in Schedule 2 of the approval need to be amended to:

- address the statutory treatment of the Kings Forest Development Code (Conditions B5 and C1); and
- remove ambiguity, provide clarity and set appropriate timeframes, so facilitating the preparation of the environmental assessments for the first project application (Conditions B2, C2, C10, C21 and C22).

In addition, Schedule 2 needs to reference the Kings Forest Development Code, and a consequential amendment is required to Schedule 3, the Statement of Commitments.

The proposed modifications and their justification are described in the following sections of this application.

## 2.0 KINGS FOREST DEVELOPMENT CODE

Condition B5 of the Minister's approval required that the proponent submit a Development Code to the Director General prior to the determination of Stage 1 of development of Kings Forest.

In accordance with this condition, the Kings Forest Development Code has completed public exhibition and been finalised to the satisfaction of the Director- General. It consists of two parts: Part A covers exempt and complying development and is to be the subject of an order by Minister under section 75P(2)(d); Part B contains detailed controls for future residential and commercial development at Kings Forest. Future project/development applications must demonstrate consistency with Part B of the Code.

As a result of the above Schedule 2 of the of the Concept Plan approval needs to be amended to:

- add the Development Code to the list of relevant documents Concept Plan(**Condition A3**); and
- incorporate the Development Code and reflect that Condition B5 has been satisfied. Changes to **Conditions B5** and **C1**, and the insertion of a new condition are detailed in Section 4.1 below

## 3.0 OTHER MODIFICATIONS

### 3.1 Flora and fauna monitoring report

It is proposed to amend **Condition B2** to remove any ambiguity in the current wording and to enable the setting of appropriate timeframes and duration for ongoing monitoring with reference to locations within Kings Forest, stages of development and specific issues. Adaptive management procedures are to be incorporated into the monitoring report

Consequential to the amendment to Condition B2, **Condition C2** is proposed to be amended to provide clarity and remove unnecessary repetition.

### 3.2 Acid Sulfate Soils and groundwater assessment and monitoring

**Condition C10** requires that detailed acid sulphate soils (ASS) assessments and management plans be submitted with each development application for subdivision. It is proposed to amend this condition to associate:

- the assessment and management of ASS temporally with the actual development of the site - which would not necessarily follow approval but could occur sometime later contingent on the issue of a construction certificate; and
- the management of ASS at Kings Forest with the element of development that would potentially impact on ASS - that is, the proposed bulk earthworks for the site.

Accordingly, the proposed to redrafting of the condition links the ASS assessment and management plan to the time of actual development and to the relevant type of development.

Consequential to the above proposed amendments, the relevant commitment made by the proponent in relation to managing ASS on the site needs to be changed (**Commitment 5.3**).

It is also proposed to amend **Condition C22** so that baseline groundwater monitoring is undertaken for an appropriate period. Under the current condition, approval would be delayed until 12 months' monitoring data was collected. In keeping with the proposed amendment to Condition C10 above, it is proposed that the results of the baseline monitoring be submitted to the relevant consent authority prior to the issue of a construction certificate.



### 3.3 Bus network

It is proposed to amend **Condition C21** to remove any possible ambiguity in the intent of the condition - that is to make provision for future public transport in the development for Kings Forest, rather than actually provide public transport.

## 4.0 PROPOSED AMENDMENTS TO CONCEPT APPROVAL

Words proposed to be inserted into the approval are shown in ***bold italics***. Words to be removed are ~~struck through~~.

### 4.1 Schedule 2

#### Condition A3 Project in Accordance with Documents

Insert after (8):

*(9) Kings Forest Development Code.*

#### Condition B2 Annual Flora and Fauna Monitoring Report

Replace entire condition with the following:

*Within 12 months of this approval, or as otherwise determined by the Director-General, the Proponent shall prepare a draft outline of a Flora and Fauna Monitoring Report to the satisfaction of the Director-General. The aim of the report is to collate and synthesise all monitoring and reporting requirements contained in the documents listed in A3.*

*The draft outline of the Flora and Fauna Monitoring Report shall set out the proposed timeframe and duration for ongoing monitoring with reference to locations within Kings Forest, stages of development and the specific issues listed below.*

*The Flora and Fauna Monitoring Report shall be prepared by a suitably qualified person/s and include, but not be limited to:*

- a) Aims, objectives and methodology for monitoring and reporting;*
- b) Baseline monitoring data focusing on existing populations of threatened species, including Wallum frog species and koalas;*
- c) Performance criteria against which the effectiveness of the various separate management plans required as part of this approval dealing with koalas, threatened species, buffers, weeds, vegetation and feral animals can be measured. Relevant benchmark reference vegetation communities are to be nominated from within surrounding conservation estates;*
- d) Actual performance against the above criteria;*
- e) Any required corrective actions;*
- f) Monitoring and reporting of fauna usage within the Environmental Projection zones, ecological buffers and the golf course;*
- g) Adaptive management procedures to ensure that the various separate management plans remain relevant and effective;*
- h) Monitoring and reporting of koala injury and mortality; and*
- i) Specific monitoring to measure any impact of the development on the adjacent Cudgen Nature Reserve and adaptive management procedures to ensure impacts are minimised.*

*The Monitoring Reports are to be provided to the Department of Planning, DECCW, Tweed Shire Council and Industry and Investment - Fisheries.*

**Condition B5 Kings Forest Development Code**

Delete entire condition.

**Condition C1 Plan of Development**

Insert after (4) ...

**(5) All other matters specified for subdivision in the Kings Forest Development Code.**

Insert new condition after Condition C1:

**Condition C1(A) Implementation of Part B of the Kings Forest Development Code**

**All future project/development applications for residential subdivision or for the construction of dwellings or commercial premises must demonstrate consistency with Part B of the Kings Forest Development Code.**

**Condition C2 Management Plans**

Amend the first paragraph of the condition as follows:

All future applications are to include, **where relevant**, stage-specific management plan updates providing, where relevant, details on timelines for implementation of recommended works including maintenance periods **and** measurable performance and completion criteria; ~~and monitoring, reporting and adaptive management procedures (results to be provided according to B2).~~ **Each plan is to 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.**

**Condition C10 Acid Sulfate Soils and Groundwater Assessment**

Amend the first paragraph of the condition as follows;

In order to ensure the protection of groundwater quality and the water quality of surrounding surface waters, a detailed Acid Sulfate Soils (ASS) assessment and, **if required**, ASS Management Plan (ASSMP), addressing groundwater and acid sulfate soils ~~prepared by a suitably qualified person~~ must be submitted ~~with the each development application for subdivision prior to the issue of construction certificates for future precinct earthworks.~~ The ASS assessment report must be carried out **by a suitably qualified person generally** in accordance with the ASSMAC Guidelines (1988) **and** must contain the following information, as a minimum: ...

**Condition C21 Bus Network**

Amend the condition as follows:

All future applications for each stage of development **for residential subdivision** are to ensure ~~the~~ that adequate provision ~~of~~ **has been made for** public transport through the provision of a bus network implementation plan.

**Condition C22 Groundwater**

Replace the entire condition as follows:

**For all future applications where the use of groundwater or the interception of the groundwater table is proposed, the proponent, after consulting with the NSW Office of Water, is to prepare detailed Site Water and Groundwater Management and Monitoring Plans, supported by baseline**



*groundwater monitoring conducted for an appropriate period. The plans are to be submitted for the approval of the relevant consent authority prior to the issue of a construction certificate.*

#### 4.2 Schedule 3

##### Commitment 5.3 Soils and Geotechnical Conditions

Amend commitment as follows:

5. In relation to managing the acid sulphate soils on the site, ***prior to the issue of construction certificates for future precinct earthworks*** Project 28 will undertake detailed site specific ASS investigations (including additional soil sampling) ~~in support of future project applications~~ ***generally*** in accordance with the NSW ASSMAC Guidelines and AS1726, ***and*** prepare Acid Sulphate Soils Management Plans ~~to accompany future project applications for each stage of development.~~

#### 5.0 CONCLUSION

The Concept Plan as proposed to be amended by this modification will be the same as the approved Concept Plan. The changes will have no environmental impacts beyond those considered in the original application. The proposed modification addresses the proposed statutory treatment of the Kings Forest Development Code. It also addresses changes in circumstances since the approval of the Concept Plan and removes potential confusion and ambiguity, so facilitating the efficient preparation of the first project application for the Kings Forest site.

We trust the above information is sufficient to allow a prompt assessment of the modification. Should you have any queries about this matter, please do not hesitate to contact me on 02 9409 4927 or [vgoldschmidt@jbaplanning.com.au](mailto:vgoldschmidt@jbaplanning.com.au).

Yours faithfully



Vivienne Goldschmidt  
Associate

Encl. Application Form and Fee

# Request to modify a major project



NSW GOVERNMENT  
Department of Planning

Date duly made: \_\_\_\_/\_\_\_\_/\_\_\_\_

Modification No. \_\_\_\_\_

## 1. Before you lodge

This form is required under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) in order to request the Minister to modify the Minister's approval to carry out a project or concept plan to which Part 3A of the Act applies.

Before making this request, it is recommended that you first consult with the Department of Planning (the Department) concerning your modification. The Director-General may issue environmental assessment requirements that must be complied with before your request will be considered by the Minister.

If the changes proposed by the modification will result in a project that is consistent with the existing approval, the Minister's approval for a modification is not required.

### Disclosure Statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Note: For more details about political donations disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

### Lodgement

All modification requests must be lodged with the Director-General of the Department of Planning, by courier or mail. An electronic copy should also be e-mailed to the assessment contact officer assigned to the project.

NSW Department of Planning  
Ground floor, 23-33 Bridge Street, SYDNEY NSW 2000  
GPO Box 39 SYDNEY NSW 2001  
Phone 1300 305 695

## 2. Details of the proponent

Company/organisation/agency

ABN

PROTECT 28 PMY LTD

☐ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

Family name

Position

### STREET ADDRESS

Unit/street no.

Street name

LEVEL 1, 46

CAVILL AVE

Suburb or town

State

Postcode

SURFERS PARADISE

QLD

4217

POSTAL ADDRESS (or mark 'as above')

PO BOX 1914

Suburb or town

State

Postcode

SURFERS PARADISE

QLD

4217

Daytime telephone

Fax

Mobile

07-5570 5500

07-5570 5050

0410 540 371

Email

RVR@LEDA GC.COM



### 3. Identify the land

STREET ADDRESS (where relevant)

Unit/street no.

Street or property name

DEPOT ROAD (KINGS FOREST)

Suburb, town or locality

Postcode

CLUGGEN

Local government area(s)

State Electorate(s)

TWYED

REAL PROPERTY DESCRIPTION

LOTS 76, 272, 323 & 326/DP 755701, LOT 6/DP 875446, LOT 2/DP 819015, LOT 1/DP 706497, LOT 40/DP 7482, LOT 38A/DP 13727, LOT 38B/DP 13727, LOT 1/DP 129737, LOT 1/DP 781633, LOT 7/DP 875447

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposed modification applies to more than one piece of land, please use a comma to distinguish between each real property description.

OR: detailed description of land attached: ☐

MAP: A map of the site and locality should also be submitted with this request.

### 4. Details of the original major project or concept plan

Briefly describe what the original approval allows

RESIDENTIAL DEVELOPMENT FOR APPROXIMATELY 4500 DWELLINGS, TOWN CENTRE AND NEIGHBOURHOOD CENTRE COMMUNITY AND EDUCATION FACILITIES EMPLOYMENT LAND - GOLF COURSE WILDLIFE CORRIDORS, REHABILITATION OF ENVIRONMENT PROTECTION ZONE, UTILITIES, WATER MANAGEMENT INCLUDING LAKE, ROADS AND PATHS

What was the original project application no.?

06\_0318

What was the date of the approval?

19 AUGUST 2010

What was the original application fee?

\$303,470

Note: Clause 245K of the *Environmental Planning and Assessment Regulation 2000* provides information on calculating the maximum fee for a request for modification.

### 5. Describe the modification you propose to make to the approval

Describe the proposed modification

MODIFICATIONS TO CONDITIONS OF APPROVAL OF 19 AUGUST 2010 TO REFLECT CHANGES IN CIRCUMSTANCES, ADDRESS PROPOSED SITUATION TREATMENT OF DEVELOPMENT CODE, PROVIDE CLARITY AND SET APPROPRIATE TIME FRAMES, ALL FACILITATING PREPARATION OF FURTHER PROJECT APPLICATION.

Your modification request may need to be accompanied by an Environmental Assessment, including plans. An electronic and hard copy of this document will be required.

ESTIMATED CAPITAL INVESTMENT VALUE

Please indicate the estimated capital investment value (CIV) of the modification to the project approval or concept plan (excluding GST).

\$ NIL



## FULL TIME EQUIVALENT JOBS

Please indicate the number of jobs created by the proposed modification. This should be expressed as a proportion of full time equivalent (FTE) jobs over a full year.

Construction jobs (FTE)

N/A

Operational jobs (FTE)

N/A

## 6. Landowner's consent (where required)

As the owner(s) of the above property, I/we consent to this request being made by the proponent:

Land

KINGZ FOREST (TITLES AS ABOVE)

Signature

REGINALD VAN RYS  
Act on behalf of Project 28 Pty Ltd

Name

REGINALD VAN RYS

Date

8 NOVEMBER 2010

Land

Signature

Name

Date

Note: Under Clause 8F of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), certain applications for approval under Part 3A of the Act do not require consent of the landowner, however, the proponent is required to give notice of the application (e.g. linear infrastructure, mining & petroleum projects, and critical infrastructure).

## 7. Political donation disclosure statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Have you attached a disclosure statement to this request?

☐ Yes

☒ No

Note: For more details about political donations disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

## 8. Proponent's signature

As the proponent(s) of the project and in signing below, I/we hereby:

- provide a description of the modification to the project approval or concept plan and address all matters required by the Director-General pursuant to Section 75W of the Act, and
- declare that all information contained within this form is accurate at the time of signing.

Signature

REGINALD VAN RYS

Name

REGINALD VAN RYS

Date

8 NOVEMBER 2010

In what capacity are you signing if you are not the proponent

COMPANY SECRETARY  
FORSTON BEHALF OF PROJECT 28 PTY LTD

Name, if you are not the proponent