



MODIFICATION REQUEST:

Modification 1 to Kings Forest Concept Plan 06_0318 (Mod 1 06_0318)

Amendments to terms of approval to include the Kings Forest Development Code in the concept approval and other minor amendments.

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

December 2010

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Published December 2010
NSW Department of Planning
www.planning.nsw.gov.au

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EXECUTIVE SUMMARY

The proposed modifications relate to amendments to the terms of approval in order to include the Kings Forest Development Code in the concept plan approval and to provide clarity and set appropriate timeframes so as to facilitate the preparation of the Environmental Assessment for the first project application. Consequential amendments are proposed to the Statement of Commitments.

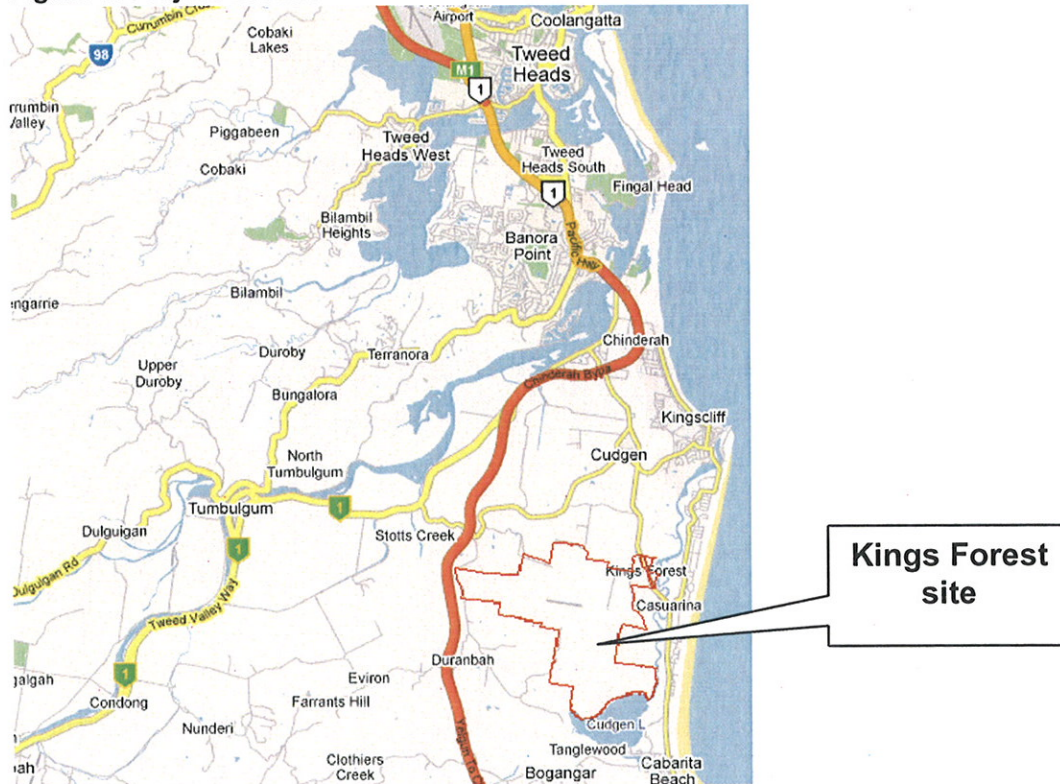
TABLE OF CONTENTS

1.	BACKGROUND	3
2.	PROPOSED MODIFICATION	4
	2.1 Modification Description	4
3.	STATUTORY CONTEXT	4
	3.1 Modification of the Minister's Approval	4
	3.2 Delegated Authority	4
4.	CONSULTATION AND SUBMISSIONS	4
	4.1 Exhibition	4
5.	ASSESSMENT	4
6.	CONCLUSION AND RECOMMENDATIONS	5
APPENDIX A	MODIFICATION REQUEST	6
APPENDIX B	RECOMMENDED MODIFYING INSTRUMENT	7

1. BACKGROUND

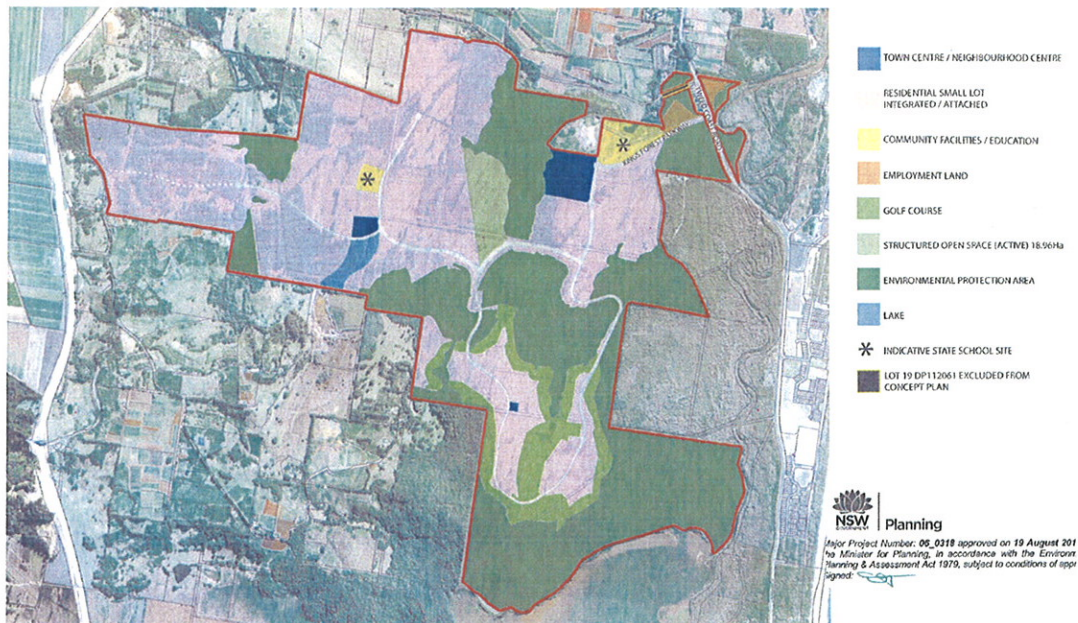
The concept plan for the Kings Forest site was approved by the Minister on the 19 August 2010. The project location is shown in Figure 1.

Figure 1: Project Location



The Department has issued DGRs for the first Project application for the site (08_0194). Refer to Figure 2 for the approved concept plan layout.

Figure 2: Approved Concept Plan Layout



SCALE 1:20000@A3
 PROJECT 28 PTY LTD

CONCEPT PLAN
 KINGS FOREST

MPS
 1300 200000
 06/08/2010 06:01
 MPS v1.0 2010/08/01
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2. PROPOSED MODIFICATION

2.1 Modification Description

The proposed modifications relate to amendments to the terms of approval in order to include the Kings Forest Development Code and to provide clarity and set appropriate timeframes so as to facilitate the preparation of the Environmental Assessment for the first project application. Consequential amendments are proposed to the Statement of Commitments.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

The proposed modifications are minor amendments to the wording of the terms of approval and are consistent with the concept plan approval.

3.2 Delegated Authority

On 25 January 2010, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where there are less than 25 public submissions (not including submissions from public authorities) in the nature of objections in respect of the modification request.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under Section 75X(2)(f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The Department placed the modification request on the Department's website on 25 November 2010.

No further consultation was warranted as the modifications are purely administrative, are consistent with the approval and have no environmental impact.

5. ASSESSMENT

Amendments to the terms of approval are required to incorporate the Kings Forest Development Code into the concept plan approval.

The Kings Forest Development Code consists of two parts: Part A being the exempt or complying development provisions; Part B being controls for development requiring a development application (DA). The Minister, on 15 December 2010, declared that development within the Kings Forest site that satisfies the requirements for exempt and complying development specified in *Part A – Exempt and Complying Development in Kings Forest Development Code*, is exempt or complying development, as appropriate.

For Part B of the Kings Forest Development Code to be considered when future development applications are being assessed reference needs to be made to it in the terms of concept approval for the Kings Forest concept plan.

Eleven other amendments to the terms of approval and the Statement of Commitments are required to improve clarity of terms of approval related to flora and fauna monitoring, management plans and groundwater and modify requirements for the submission of Acid Sulfate Soil Management plans.

6. CONCLUSION AND RECOMMENDATIONS

The Department has assessed the modification application in accordance with the relevant requirements of the Act. The proposed modification is consistent with the concept plan approval, is administrative in nature and will not cause any environmental impacts. Consequently the Department believes the modification to be in the public interest, and recommends the application to modify the project be approved.

Prepared by
Stuart Withington
Senior Planner
Regional Projects

APPENDIX A MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4379

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT

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 25 January 2010, I approve the modification of the project application referred to in schedule 1, subject to the conditions in schedule 2.



Mark Schofield
A/Director
Regional Projects

Sydney

22/12

2010

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 1 06_0318: Amendments to incorporate the Kings Forest Development Code into the approval, modify requirements for certain plans to be submitted and clarify other terms of approval.

SCHEDULE 2

The above approval is modified as follows:

SCHEDULE 2

PART A

- a) Amend A3 by adding:

(9) Kings Forest Development Code.

PART B

- b) Delete B2 and replace with:

B2 Annual Flora and Fauna Monitoring Report

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:

- (1) Aims, objectives and methodology for monitoring and reporting;
- (2) Baseline monitoring data focusing on existing populations of threatened species, including Wallum frog species and koalas;
- (3) 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;
- (4) Actual performance against the above criteria;
- (5) Any required corrective actions;
- (6) Monitoring and reporting of fauna usage within the Environmental Projection zones, ecological buffers and the golf course;
- (7) Adaptive management procedures to ensure that the various separate management plans remain relevant and effective;
- (8) Monitoring and reporting of koala injury and mortality; and
- (9) 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.

- c) Delete B5

PART C

- d) Amend C1 by adding:

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

- e) Delete the first paragraph of C2 and replace with:

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. 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.

- f) Amend C10 by deleting the first paragraph and replacing with:

In order to ensure the protection of groundwater quality and the water quality of surrounding surface waters, a detailed acid sulphate soils (ASS) assessment and, if required, ASS Management Plan (ASSMP) addressing groundwater and acid sulphate soils prepared by a suitably qualified person must be submitted prior to issue of construction certificates for future precinct earthworks. The assessment must be carried out in accordance with the ASSMAC Guidelines (1988) and must include the following, as a minimum:

- g) Delete C21 and replace with:

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

- h) Delete C22 and replace with:

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.

- i) Insert new C26:

C26 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.

SCHEDULE 3

- j) Delete 5.3 5 and replace with:

In relation to managing the acid sulfate soils on the site, prior to the issue of construction certificates for the future precinct earthworks Project 28 will undertake detailed site specific ASS investigations (including additional soil sampling) generally in accordance with the NSW ASSMAC Guidelines and AS1726, and prepare Acid Sulfate Soils Management Plans.
