

TABLE 1 – REQUESTED MODIFIED CONDITIONS		
PAC CONDITION	REQUESTED MODIFIED CONDITION	REASONS FOR MODIFICATION
SCHEDULE 1		
PART C – DEFINITIONS		
<p><b>Land to be dedicated to Council in the future</b> 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><b>Potential Council Land Plan With Work Areas</b> means the plan with that title prepared by Landsurv dated 06.12.13, Revision E.</p> <p><b>Potential Council Land</b> 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 <b>Annexure B</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><b>Offset Area</b> 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><b>Future OEH Land</b> 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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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	Delete from the table Plan No.s 01, 04 and 05 and insert the following amended Plan References: <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		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.  Plan No.s 01, 04 and 05 have been amended by deleting the reference “to be dedicated to Council or NPWS” (see Annexure C).
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<p><b>B5 Dedication of Land to Tweed Shire Council</b></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><b><i>B5 Dedication of Land to Tweed Shire Council</i></b></p> <p><i>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.</i></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><b>B7 – Implementation of Environmental Management Plans</b></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 OEH and/or Tweed Shire Council regarding the dedication of that land.</p>	<p><b>B7 – Implementation of Environmental Management Plans</b></p> <p>1) The Proponent is responsible for the management of all <b>potential Council land</b> and the <b>future OEH land</b> 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.</p>	<p>Amendment of Condition B7 is required to achieve consistency with the new definitions.</p>

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<p><b>B8 Director-General as Moderator</b></p> <p>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.</p>	<p><b>B8 Director-General as Moderator</b></p> <p>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. <b>This condition does not allow the Director-General to give approval or make agreement in lieu of the Proponent.</b></p>	<p>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.</p>
<p><b>C3 Dedication of Land to OEH</b></p> <p>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.</p> <p>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.</p>	<p><b>C3 Dedication of Land to OEH</b></p> <p>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 <b>the Future OEH Land being no less than approximately 150ha</b>, as an addition to the Cudgen Nature Reserve.</p> <p>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.</p>	<p>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.</p>

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<p><b>C29 Dedication of Land to Tweed Shire Council</b></p> <p>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.</p>	<p><b>C29 Dedication of Land to Tweed Shire Council</b></p> <p>All future development applications for subdivision shall provide details of the <b>Potential Council Land as is relevant to the application concerned.</b></p>	<p>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.</p>
<p><b>C30 Affordable Housing</b></p> <p>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.</p> <p>Note: The provision of affordable housing may be subject to the successful application for National Rental Affordable Housing Scheme (NRAS) funding.</p>	<p><b>C30 Affordable Housing</b></p> <p>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. <b>The provision of affordable housing is subject to the successful application for National Rental Affordable Housing Scheme (NRAS) funding.</b></p>	<p>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.</p>

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