



**Australian Government**

**Department of Sustainability, Environment, Water, Population and Communities**

**Approval Decision**

**Cobaki Lakes Residential Development, Tweed Heads, NSW  
(EPBC 2010/5296)**

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

**Proposed action**

<b>person to whom the approval is granted</b>	Regional Manager – Leda Manorstead Pty Ltd
<b>proponent's ABN</b>	65 058 793 114
<b>proposed action</b>	To construct a residential development and ancillary commercial, retail, recreational and educational facilities known as the Cobaki Lakes at Tweed Heads, NSW as described in the referral received by the Department on 7 January 2010.

**Approval decision**

<b>Controlling Provision</b>	<b>Decision</b>
Listed threatened species and communities (sections 18 & 18A)	Approved
Listed migratory species (sections 20 & 20A)	Approved
Commonwealth land (sections 26 & 27A)	Approved

This approval is subject to the conditions specified below.

**expiry date of approval**

This approval has effect until 4 October 2031.

**Decision-maker**

<b>name and position</b>	Richard McAllister Assistant Secretary Environment Assessment Branch
<b>signature</b>	
<b>date of decision</b>	13 October 2011

## Conditions attached to the approval

### Conditions of Approval

1. The person taking the action may not clear more than 197.64 hectares (ha) of vegetation that includes no more than:
  - a) 13.54 ha of foraging habitat for Grey-headed Flying fox (*Pteropus poliocephalus*);
  - b) 3.8 ha of Swamp sclerophyll forest (providing potential habitat for the Swamp orchid (*Pahius australis*); and
  - c) 0.14 ha of suitable habitat for:
    - Scented acronychia (*Acronychia littoralis*);
    - Spiny gardenia (*Randia moorei*);
    - Rough-shelled bush-nut (*Macadamia tetraphylla*);
    - Stinking cryptocarya (*Cryptocarya foetida*); and
    - Coolamon (*Syzygium moorei*).

A report, including maps, verifying compliance with this condition must be submitted to the Minister within 3 months of completion of construction.

### Management Plan for the Long-nosed potoroo

2. The person taking the action must submit a Management Plan for the Long-nosed potoroo (*Potoroos tridactylus tridactylus*), to the Minister for approval. The plan must address the following requirements:
  - a) The construction and maintenance of permanent fauna underpasses and associated infrastructure that will facilitate safe and effective movement of the Long-nosed potoroo under the Cobaki Parkway;
  - b) Provision for revegetation in areas around the underpasses to provide refuge habitat for the Long-nosed potoroos. Specifically, dry heathland shrubs such as Midgen Berry and groundcovers, including *Lepidosperma*, must dominate plantings around the fauna underpasses. Additionally, species that are tolerant to periodic inundation, must be planted in those areas prone to inundation, that should include *Gahnia* sp., *Restio* sp., and *Lomandra* sp.
  - c) The construction and maintenance of permanent fauna exclusion fencing that will restrict the Long-nosed potoroo from accessing the the Cobaki Parkway (including bike paths) and facilitate the use of fauna underpasses;
  - d) Measures to manage and monitor the use of fauna crossings and the effectiveness of fencing for the Long-nosed potoroo. Thresholds for management intervention if monitoring indicates the crossings or fences are not effective;
  - e) Outline commitments for:
    - Predator control (including for fox, feral animals and domestic pets). The plan must include a description and justification for the design, location and maintenance of predator control fencing along the interface of the development site and Long-nosed potoroo habitat fencing.
    - Weed control.
    - Fire management.
    - Controlling human access.
  - f) A monitoring program designed to determine the impacts of all activities associated with the Cobaki Lakes Development on the adjacent Long-nosed Potoroo population. Prior to submission of the management plan for approval the person taking the action must have the plan reviewed by a suitably qualified



independent expert to ensure the design of the monitoring program is sound and has sufficient statistical power to measure significant changes in abundance of the Long-nosed potoroo attributable to the proposal. Any recommendations made by the reviewer must be implemented prior to submission and a copy of the review must be attached to the plan.

- g) A timeframe for monitoring as outlined in 2(f) for five years, at which point of time the need for further monitoring will be reviewed.
- h) The plan must include clear key milestones, performance indicators, corrective actions and timeframes for the completion of all actions outlined in the plan;
- i) Provisions for reporting, including the submission of progress reports to the Minister after one, three and five years from the date of this approval;
- j) All actions must be based on the Integrated plan of Management for the Endangered Long-nosed Potoroo (*Potorous tridactylus tridactylus*) Population at Cobaki (Lewis & Freestone, 2009). Agreement must be reached with the Queensland Department of Main Roads regarding the resourcing and undertaking of actions to ensure all actions required under the Integrated plan of Management for the Endangered Long-nosed Potoroo plan (2009) are implemented; and
- k) Provision of offsets in the event that (a) monitoring undertaken consistent with 2(f) detects a statistically significant decline of the species each year, for three subsequent years that is attributable to the Cobaki Lakes Development or (b) the approved plan can not be fully implemented for any reason.

The plan must be submitted for approval by the Minister within six months of the date of this approval. The submitted plan must satisfy the Minister.

**The approved plan must be implemented.**

**Biodiversity Offset Strategy**

3. The person taking the action must submit a Biodiversity Offset Strategy to the Minister for approval. The strategy must address the following requirements:
  - a. The acquisition and conservation of land containing a minimum of 3 ha of foraging habitat for the Grey-headed Flying Fox for every 1 ha of habitat cleared or degraded for this species, that is of equal or greater quality to that removed for Cobaki Lakes residential development. In the event that land acquired is of lower value, then the ratio will need to be greater to account for the difference;
  - b. The land referred to in condition 3(a) must be protected by a legal instrument under relevant nature conservation legislation, that ensures the land is conserved in perpetuity; and
  - c. The strategy must include key milestones, performance indicators, corrective actions and timeframes for the completion of all actions outlined in the strategy.

The approved strategy must be implemented.

The person taking the action must not remove any habitat for the Grey-headed Flying Fox until the Minister approves the strategy.

4. To minimise impacts on the Scented acronychia (*Aconychia littoralis*), the person taking the action must not include White Aspen, Silver Aspen and Logan Apple in its revegetation or rehabilitation works.

5. The person taking the action must manage storm water discharge from the Cobaki Lakes residential development site into the Cobaki Broadwater consistent with:
  - a. any plans or standards governing the quality of storm water adopted by the Tweed Shire Council; and
  - b. the salt marsh rehabilitation plan as approved by the NSW government.

<b>General</b>
6. The person taking the action must ensure that all reports, plans, strategies and programs required by the approval conditions are publicly available on the proponent's website once the report, plan, strategy or program is approved.
7. Within 10 business days of commencement of the action, the person taking the action must advise the Minister in writing the actual date of commencement.
8. If the person taking the action wishes to carry out any activity other than in accordance with a plan, program or strategy approved pursuant to conditions 2 & 3 the person taking the action must submit for the Minister's approval a revised version of any such plan, program or strategy. If the Minister approves the revised plan, program or strategy so submitted, the person taking the action must implement that plan, program or strategy instead of the plan, program or strategy as originally approved.
9. If the Minister believes that it is necessary or desirable for the better protection of listed species or values on Commonwealth land, the Minister may request that the person taking the action make specified revisions to the plans, reports or strategies approved pursuant to condition 2 & 3, and submit the revised plan, report or strategy for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan, report or strategy must be implemented. Unless the Minister has approved the revised plan, report or strategy, then the person taking the action must continue to implement the plan, report or strategy originally approved, referred to in condition number 2 & 3.
10. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the above conditions of approval and make them available upon request to the department. Such records may be subject to audit by the department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the department's website. The results of audits may also be publicised through the general media.
11. If, at any time after five years from the date of this approval, there has not been substantial commencement of the action, the action must not thereafter be commenced.

## Definitions

1. The **EPBC Act** is the *Environment Protection and Biodiversity Conservation Act 1999*.
2. **The department** is the Australian Government department responsible for the Environment Protection and Biodiversity Conservation Act 1999.
3. **The Minister** is the Commonwealth Minister responsible for the Environment Protection and Biodiversity Conservation Act 1999.
4. **Remove** is to cut down, fell, thin, log, clear, kill, destroy, poison, ringbark, uproot or burn native vegetation.
5. **Commencement** is when any construction (as defined above) has started, not including the removal (as defined above) of any EPBC listed species or ecological communities.
6. **Suitably qualified independent expert** is a person who is completely independent from previous work undertaken for the proponent or their consultant and has demonstrated experience in biostatistics.