

## + MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06\_0316 (MOD 4)

COBAKI ESTATE CONCEPT PLAN – PROPOSED RESIDENTIAL SUBDIVISION

**At Sandy Lane, Cobaki Lakes**

• Prepared For: **Leda Manorstead Pty Ltd** | • Prepared by: **DAC Planning Pty Ltd** | • May 2016 |

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## MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06\_0316 (MOD 4)

### PROPOSED COBAKI ESTATE RESIDENTIAL DEVELOPMENT AT SANDY LANE, COBAKI LAKES

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#### EXECUTIVE SUMMARY

The subject land is described as the Cobaki Estate, which is located adjacent to the New South Wales/Queensland border and has a total area of approximately 600 hectares. The legal description of the Cobaki Estate is Lot 1 in DP 570076; Lot 2 in DP 566529; Lot 1 in DP 562222; Lot 1 in DP 570077; Lot 1 in DP 823679; and Lots 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228 and 305 in DP 755740. Land surrounding the Cobaki Estate includes the State Border Reserve to the north and west, environmental land and the Cobaki Broadwater to the east and Cobaki Creek and Rural Residential and grazing land to the south and southwest.

The Cobaki Concept Plan No. 06\_0316 relates to a proposed residential development of approximately 5,500 dwellings including town centre and neighbourhood centres; community facilities and school sites; open space; wildlife corridors; protection and rehabilitation of environmentally sensitive land; road corridors and utility services infrastructure; water management areas; and roads and a pedestrian and bicycle network.

On 21 August 2015, Leda Manorstead Pty Ltd (owner of the subject site) requested the Secretary's Environmental Assessment Requirements for MOD 4.

On 8 October 2015 the Department of Planning and Environment issued the Secretary's Environmental Assessment Requirements (SEARs) for the modification.

In January 2016 a Section 75W Application was submitted to the Department in response to the SEARs seeking modification of the Concept Plan.

On 5 February 2016 the Department by email requested additional information.

On 22 February 2016, additional information in relation to the School sites and Southern Special Purpose Precinct was provided by Leda Manorstead.

On 18 February 2016 a request was also made by the proponent to include modification of the Cultural Heritage Parks.

The Department has subsequently required the submission of a Consolidated Modification Report incorporating the additional information provided by the applicant in February 2016 including an amended Cultural Heritage Assessment. No amendment has been made to the SEARS.

This Report comprises the requested Consolidated Modification Report.

The MOD 4 Application relates to a number of internal reconfigurations of future land uses within the existing identified urban footprint of the development. The proposed modifications are summarised as follows.

- Provision of a new school site within Precinct 6. The new school site will replace previously approved residential land.
- Extend the Town Centre area to the east replacing the previous Northern School Site in Precinct 5.

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- Relocate the Southern Special Purpose Precinct (SSPP) to the corner of Cobaki Parkway and Sandy Road replacing the previous Southern School Site in Precinct 8. Facilitate a Registered Club and Child Care Centre on the eastern side of the relocated SSPP and neighbourhood centre use to the western side of the relocated SSPP.
  - Extend the residential area in Precinct 8 to replace the previous neighbourhood shop site within the SSPP site in Precinct 8.
  - Delete one Cultural Heritage Park previously located within Precinct 8 and replace it with residential development.
  - Modification of Condition C14 to allow for the keeping of cats.

The request for SEARS included a proposal to relocate the community facilities site to the town centre, however that element of the proposal is no longer required and does not form part of the MOD 4 Application.

Following approval of the original Cobaki Concept Plan, consultation with the NSW Department of Education has indicated that two primary schools sites are no longer required. A suitable alternative single primary school site has been identified within Precinct 6 of the Cobaki Estate. The Department of Education has confirmed that it is satisfied with the general location, shape and size of the proposed modified school site.

The proposed MOD 4 to the Concept Plan will create a net increase in Town Centre/ Neighbourhood Centre domain of 6.31 hectares, a net decrease in Community Facilities/ Education/Utilities domain of 4.82 hectares, a net decrease in Residential domain of 3.61 hectares and an increase of 2.12 hectares of Public Open Space. The environmental protection areas or major road alignments are not affected by the proposed MOD.

Despite the reduction in the area of land available for residential purposes, the overall yield of residential dwellings is unlikely to be altered as medium density shop-top housing is intended to be provided within the Town Centre area, which will be expanded by approximately 3 hectares.

The southern school site and the adjoining Neighbourhood Centre within the original Cobaki Concept Plan are known as the Southern Special Purpose Precinct (SSPP). The alteration to the SSPP will provide a site of approximately 3 hectares to accommodate a Registered Club and Child Care Centre. The inclusion of a Registered Club and Child Care Centre in the SSPP is considered desirable to improve the range of entertainment and recreational facilities within the development area. It will also achieve an appropriate urban design "book end" at the key southern entry to the Estate and maintain the integrity of the Town Centre as the main retail area by controlling the size of other commercial uses within the SSPP.

Assessments have been undertaken in relation to traffic and urban infrastructure impacts which may arrive as a result of the relocation of future land uses within the site associated with MOD 4. The Assessments confirm that no changes are required in relation to the existing road network or infrastructure arrangements approved under the Concept Plan.

The Cultural Heritage Management Plan (CHMP) approved under the originally approved Concept Plan allowed for a total of 3 Cultural Heritage Parks across the Sand Ridge area in Precinct 8. With the benefit of subsequent sand dating results, a revision to the Concept Plan CHMP is appropriate in order to site the parks to increase the area of protection of the known archaeological deposit which returned dates of approximately 30,000-40,000 years. The proposed modification will increase the area of protection of the oldest archaeological deposit from 7,471.65m<sup>2</sup> to 8,073.92m<sup>2</sup>, notwithstanding that the number of separate parks is reduced from 3 separate parks to 2 separate parks. The proposed modification to the Cultural Heritage Parks within Precinct 8 also partially maintains the visual connection between the two parks as a representation of the former sand ridge.

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Consultations have been undertaken with Tweed Shire Council, Gold Coast City Council, Office of Environment and Heritage, NSW Environment Protection Agency, NSW Department of Education, Queensland Department of Education Training and Employment, Australian Government Department of Education and Training, Queensland Airports Limited- Gold Coast Airport, the Office of Liquor, Gaming and Racing and Aboriginal stakeholder individuals and groups.

The MOD 4 proposal also includes the deletion of Condition C14 which restricts the keeping of domestic cats. The proposed deletion of Condition C14 is supported by a report prepared by JWA Ecological Consultants, including the adequacy of existing regulations applying to the keeping of domestic cats.

The MOD 4 proposal may be given effect by modifying Condition A2, Condition A3, Condition C14 and Condition C15.

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## 1.0 INTRODUCTION

Leda Manorstead Pty Ltd has commissioned DAC Planning Pty Ltd to prepare an application for modification (MOD 4) of Concept Plan Approval No. 06\_0316, which relates to a residential subdivision at Cobaki Estate.

This Modification Application seeks to replace two existing school sites with a new school site to be provided within Precinct 6. The Town Centre is to be extended to the east to replace the previous Northern School Site in Precinct 5.

The Southern Special Purpose Precinct (SSPP) is to be reconfigured to replace the previous Southern School Site in Precinct 8. A Registered Club and Child Care Centre is to be included with the eastern part of the relocated SSPP in Precinct 8 at the corner of Cobaki Parkway and Sandy Road and the neighbourhood shop site is to be located to the western side of the new SSPP.

The residential area in Precinct 8 is to be extended to replace the previous neighbourhood shop site within Precinct 8 and one Cultural Heritage Park previously nominated in the Cultural Heritage Management Plan located within Precinct 8 is to be removed. That land is also to be used for residential development.

The MOD 4 proposal also includes modification of the current prohibition on the keeping of cats to instead provide appropriate restrictions on cat ownership and control within the estate.

## 2.0 SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

The Secretary's Environmental Assessment Requirements (SEARS) are reproduced in **Table 1**. The table indicates where each of the relevant matters is addressed in this Environmental Assessment. A copy of the SEARs is attached as **Annexure A**.

TABLE 1 – SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	
REQUIREMENT	SECTION
<b>Application Number MP06_0316 MOD 4</b>	
Concept Plan modification to the Cobaki Residential Development to: <ul style="list-style-type: none"><li>• alter the school site locations;</li><li>• locate a Registered Club in the Southern Special Purpose Precinct;</li><li>• locate a neighbourhood centre on Sandy Lane;</li><li>• re-locate the Council community facilities to the Town Centre; and</li><li>• alter Condition C14 'Restriction on Cats' to allow the keeping of cats subject to existing Council Regulations.</li></ul>	-
<b>Location</b>	
Cobaki Residential Development, Piggabeen Road, Cobaki Lakes	-
<b>Proponent</b>	
Leda Manorstead Pty Ltd	-
<b>Date of Issue</b>	
8 October 2015	-

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TABLE 1 – SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	
REQUIREMENT	SECTION
<b>General Requirements</b>	
The modification request must include:	-
an executive summary;	Page 7
a description of the existing and surrounding environment;	Section 2.0
a thorough description and justification of the proposal including:	Section 3.0
- a detailed justification for the proposed modifications having regard to the environmental impacts, the suitability of the site and the public benefits;	Section 3.1
- identification and analysis of alternatives and the associated environmental impacts; and	Section 3.2
- the relationship of the proposed modifications to the approved development at Cobaki;	Section 3.3
consideration of relevant statutory provisions	Section 4.0
a detailed assessment of the key issues specified, including:	Section 5.0
- a description of the existing environment, using sufficient baseline data;	Section 18.0
- an assessment of the potential impacts of the modification, including any cumulative impacts, taking into consideration existing approvals, relevant guidelines, policies, plans and statutes;	Section 19.0
- a description of the measures that would be implemented to avoid, minimise, mitigate and if necessary, offset the potential impacts of the development, including proposals for adaptive management and/or contingency plans to manage significant risks to the environment; and	Section 20.0
- impacts of the modification, including cumulative impacts;	Section 21.0
a description of all proposed amendments to the approved documentation (where necessary);	Section 22.0
an estimate of the jobs that will be created by the development during the construction and operational phases of the proposed modification/s; and	Section 23.0
a conclusion justifying the proposal, taking into consideration the environmental impacts of the proposal and the suitability of the site.	Section 24.0
<b>Key Issues</b>	
The modification request must address the following specific matters:	Section 5.0
<b>1. Statutory and Strategic Context - including:</b>	Section 5.1
Address the statutory provisions applying to the proposed development contained in all relevant environmental planning instruments, including:	
• <i>State Environmental Planning Policy (State and Regional Development) 2011;</i>	Section 5.1.1
• <i>State Environmental Planning Policy (Infrastructure) 2007;</i>	Section 5.1.2
• Tweed Local Environmental Plan 2014;	Section 5.1.3
• Tweed Development Control Plan 2008; and	Section 5.1.4
• Tweed Coast Comprehensive Koala Plan of Management	Section 5.1.5
<i>Permissibility</i>	
Detail the nature and extent of any prohibitions that apply to the development.	Section 5.1.6

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TABLE 1 – SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	
REQUIREMENT	SECTION
<p>Development Standards and Strategic Plans</p> <p>Identify compliance with the development standards applying to the site.</p> <p>Address the relevant planning provisions, goals and strategic planning objectives in the following:</p> <ul style="list-style-type: none"> <li>• <i>NSW2021</i>;</li> <li>• <i>Far North Coast Regional Strategy</i>;</li> <li>• <i>NSW Long Term Transport Master Plan 2012</i>;</li> <li>• <i>NSW Bike Plan</i>;</li> <li>• <i>Planning Guidelines for Walking and Cycling</i>; and</li> <li>• <i>Healthy Urban Development Checklist, NSW Health</i>.</li> </ul>	Section 5.1.7
<b>2. Site Analysis and Land Use</b>	Section 5.2
site survey plan that identifies the relevant natural and built environmental features within and adjoining the site including site boundaries, levels and identification of any easements or other legal affectations on the title;	Section 5.2.1
a revised Precinct Location Plan that identifies the proposed modifications to the boundaries of each stage and the timing for the delivery of the development and land uses, number of dwellings and activities contained in each stage;	Section 5.2.2
a revised development matrix identifying the approved and proposed land uses, floor space areas, floor space ratios, total gross floor area and site coverage as relevant to each stage of the development;	Section 5.2.3
a plan depicting the proposed modifications to the approved Concept Plan, including land uses; and	Section 5.2.4
the modification request must also include consideration of the privacy impacts of the proposed development, any amenity impacts within the foreshore areas, any overshadowing impacts within existing or proposed public reserves, and loss of views from public places. A high level of environmental amenity must be demonstrated, including within the public domain.	Section 5.2.5
<b>3. Built Form and Urban Design</b>	Section 6.0
<p>The modification request must demonstrate how the proposed development will integrate into the surrounding context. The request shall include:</p> <ul style="list-style-type: none"> <li>- a building envelope study which provides a comparative analysis of the height limits and building setbacks contemplated under the approved Concept Plan and the proposed modification;</li> <li>- any modifications required to the Cobaki Estate Development Code, Height Control and Open Space Plans approved under the Concept Plan required to facilitate the proposed modification; and</li> <li>- identify and justify any changes to the approved open space network.</li> </ul>	Section 6.1
<b>4. Transport and Accessibility</b>	Section 7.0
<p>Provide a revised Traffic Concept Plan, which includes:</p> <ul style="list-style-type: none"> <li>• detailed plans of the proposed layout of the internal road network and onsite parking in accordance with the relevant Australian standards;</li> <li>• analysis of any proposed changes to the road network approved under the Concept Plan;</li> </ul>	Section 7.1

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TABLE 1 – SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	
REQUIREMENT	SECTION
<ul style="list-style-type: none"> <li>modelling of any traffic impacts associated with the proposed modifications to the Concept Plan, including an estimate of the total daily and peak hour vehicle trips generated by the new uses proposed within the Town Centre;</li> <li>an assessment of the impacts of all modifications to the approved road network and infrastructure, and use of the Austroads Guidelines to identify appropriate mitigation measures;</li> <li>identification of any funding required to facilitate any road upgrade or road improvement works (if required);</li> <li>an assessment of any impacts on the functionality of the Tugan Bypass and the Boyd Street intersections, and identification of any traffic mitigation measures required at these locations;</li> <li>an assessment of the impacts of any proposed modifications to the Access Network and Potential Bus Route Plan approved under the Concept Plan; and</li> <li>an assessment of the adequacy of the existing public transport services to meet the likely future demand of the proposed development.</li> </ul>	
<b>5. Visual Impacts</b>	Section 8.0
Provide a Visual Impact Assessment, which includes a comparative analysis of the visual impacts of the approved Concept Plan and the proposed modification. The Visual Impact Assessment must be prepared in accordance with the principles outlined in <i>Tenacity Consulting v Warringah Council</i> (2004).	Section 8.1
<b>6. Future Demographics</b>	Section 9.0
Provide a future demographics analysis which includes:	
<ul style="list-style-type: none"> <li>modelling of any changes to demographics arising from the proposed modification;</li> </ul>	Section 9.1
<ul style="list-style-type: none"> <li>an assessment of the facilities and services required to support the future population as envisaged under the revised development concept; and</li> </ul>	Section 9.2
<ul style="list-style-type: none"> <li>an assessment of the impacts of the revised development concept on existing facilities in the locality, having regard to the centres hierarchy envisaged under the <i>Tweed Retail Strategy</i>.</li> </ul>	Section 9.3
<b>7. Educational Institution</b>	Section 10
Identify the development triggers and applicable requirements (including timing) associated with the dedication of the school site.	Section 10.1
<b>8. Contributions</b>	Section 11.0
Address Council's relevant Section 94A Contribution Plan and/or details of any Voluntary Planning Agreement required to support the proposed modifications to the Concept Plan.	Section 11.1
<b>9. Ecologically Sustainable Development</b>	Section 12.0
<ul style="list-style-type: none"> <li>detail how ESD principles (as defined in clause 7 of Schedule 2 of the <i>Environmental Planning and Assessment Regulation 2000</i>) will be incorporated into the design of the development;</li> </ul>	Section 12.1
<ul style="list-style-type: none"> <li>include a description of the measures that would be implemented to minimise consumption of water and energy use of future buildings; and</li> </ul>	Section 12.2

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TABLE 1 – SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	
REQUIREMENT	SECTION
<ul style="list-style-type: none"> <li>detail any proposed alternative water supply, proposed end uses of potable and non-potable water, demonstration of water sensitive urban design and any water conservation measures.</li> </ul>	Section 12.3
<b>10. Noise and Vibration</b>	Section 13
Identify the main noise and vibration generating sources on-site and existing sources of noise. Outline measures to minimise and mitigate potential noise and vibration impacts on land within and adjacent to the Concept Plan area. This should also include consideration of existing road traffic noise and aircraft noise from the Gold Coast Airport.	Section 13.1
<b>11. Stormwater and Drainage</b>	Section 14.0
<ul style="list-style-type: none"> <li>provide revised stormwater and flood modelling which identifies the impacts, if any, of the proposed modification; and</li> <li>provide a revised Stormwater Management Concept Plan which identifies any changes to the stormwater management concept arising from the proposed modification.</li> </ul>	Section 14.1
<b>12. Domestic Cats</b>	Section 15.0
Identify and incorporate detail of all regulatory controls relevant to the management of domestic cats at the Cobaki site. Detail how the application and enforcement of these controls will be applied across the estate.	Section 15.1
<b>13. Servicing</b>	Section 16.0
Prepare a utilities and infrastructure servicing report which identifies the capacity of existing/approved infrastructure and any augmentation of this infrastructure required as a result of the proposed modification.	Section 16.1
<b>Consultation</b>	Section 17.0
<p>During the preparation of the modification request you must consult with the relevant local, State or Commonwealth Government authorities, service providers, community groups and affected landowners. In particular you must consult with:</p> <ul style="list-style-type: none"> <li>Tweed Shire Council;</li> <li>Gold Coast City Council;</li> <li>NSW Office of Environment and Heritage;</li> <li>NSW Environment Protection Agency;</li> <li>NSW Department of Education and Communities;</li> <li>Queensland Department of Education Training and Employment;</li> <li>Australian Government Department of Education and Training;</li> <li>Queensland Airports Limited- Gold Coast Airport; and '</li> <li>Office of Liquor, Gaming and Racing.</li> </ul> <p>The modification request must describe the consultation process and the issues raised, and identify where the design of the development has been amended in response to these issues. Where amendments have not been made to address an issue, a short explanation should be provided.</p>	<p>Section 17.1</p> <p>Section 17.2</p> <p>Section 17.3</p> <p>Section 17.4</p> <p>Section 17.5</p> <p>Section 17.6</p> <p>Section 17.7</p> <p>Section 17.8</p> <p>Section 17.9</p>

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### 3.0 DESCRIPTION OF THE EXISTING AND SURROUNDING ENVIRONMENT

#### 3.1 Property Description

The subject land is described as the Cobaki Estate and is located adjacent to the New South Wales/Queensland border and has a total area of approximately 600 hectares. The legal description of the Cobaki Estate is Lot 1 in DP 570076; Lot 2 in DP 566529; Lot 1 in DP 562222; Lot 1 in DP 570077; Lot 1 in DP 823679; and Lots 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228 and 305 in DP 755740.

The regional context of the site in relation to the NSW coast, the towns of Tweed Heads, Murwillumbah and Kingscliff is indicated in **Figure 1**.

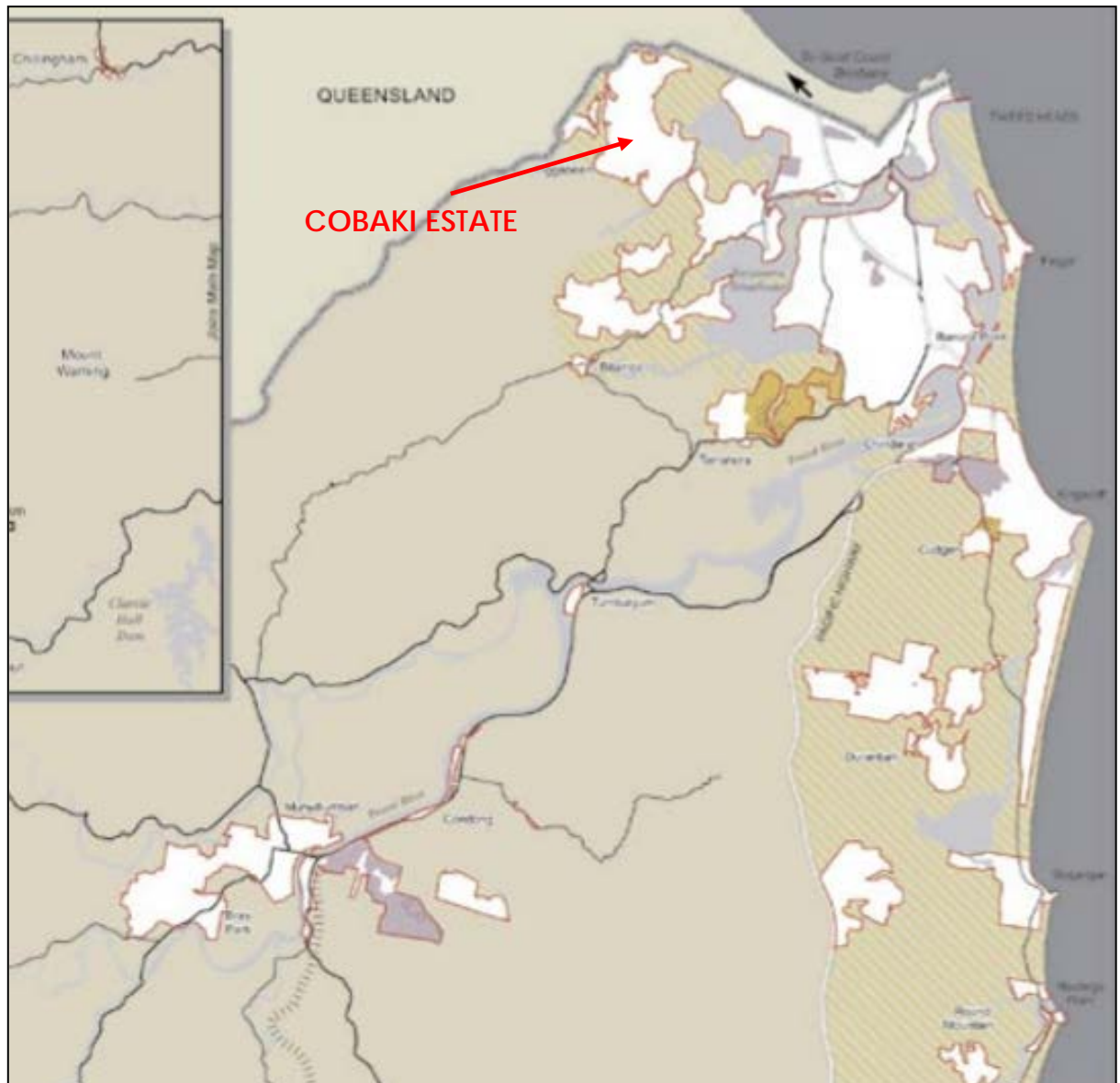


Figure 1 – Regional Context  
Source: Far North Coast Regional Strategy 2006 – 2031, Department of Planning 2006

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In summary, the Tweed Heads town centre is located approximately 5.5 kilometres to the east of the site and Gold Coast Airport is located approximately 1.2 kilometres to the east of the site.

The Cobaki Estate is located on the western edge of the Tweed Heads urban area with access to Boyd Street to the east and Piggabeen Road to the south. Piggabeen Road connects to the Pacific Highway via Kennedy Drive.

In the local context, **Figure 2** shows the spatial relationship between the site and surrounding development.



**Figure 2 – Local Context**  
Source: SIX Maps

To the north and west of the Cobaki Estate is the State Border Reserve which is forested and located on elevated land such that the residential uses further to the north in Queensland (Currumbin Waters and Tugun) are not visible from the site. To the east of the site is vegetated public land adjoining the Cobaki Broadwater, and Cobaki Creek. To the south of the site on the opposite side of Piggabeen Road are Rural and Rural Residential land uses.

The site comprises a large portion of cleared land which has historically been used for agricultural purposes, including grazing and slashing.

Various Development Consents for the purpose of residential subdivision have been commenced within the site, with bulk earthworks continuing.

#### **4.0 A THOROUGH DESCRIPTION AND JUSTIFICATION OF THE PROPOSAL**

The proposed modification to the approved Concept Plan involves the following elements:

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**New School Site in Precinct 6** – A new school site is to be provided within Precinct 6 comprising an area of 3.26 hectares and located to the south of the east- west fauna corridor. The new school site will replace previously approved residential land.

**Town Centre in Precinct 5** – The Town Centre area is to be extended to the east to replace the previous Northern School Site (approximately 3 hectares) in Precinct 5.

**Southern Special Purpose Precinct (SSPP) and inclusion of a Registered Club and Child Care Centre in Precinct 8** – The SSPP is to be relocated to the corner of Cobaki Parkway and Sandy Road replacing the previous Southern School Site in Precinct 8. The total area of the SSPP will be 4.0 hectares with approximately 3 hectares provided for a Registered Club and Child Care Centre at the eastern side of the relocated SSPP. Approximately 0.6 hectares will be allocated to the Neighbourhood Shops land use.

**Residential Area in Precinct 8** – the residential area in Precinct 8 is to be extended to replace the previous SSPP site within Precinct 8. The area of land is approximately 1 hectare.

**Cultural Heritage Parks in Precinct 8** – One Cultural Heritage Park previously nominated in the Cultural Heritage Management Plan located within Precinct 8 is to be removed. That land is to be used for residential development.

**Restriction of Cats** – Modification of Condition C14 is proposed to allow for the keeping of cats.

TABLE 1 – COMPARATIVE ANALYSIS OF ORIGINAL COBAKI CONCEPT PLAN LAND USE AREAS AND PROPOSED MOD 4 LAND USE AREAS					
Concept Plan Domain	Total Area Original Concept Plan		Total Area MOD 4		Net Change
	Leda Owned Land	Proposed Road Closures	Leda Owned Land	Proposed Road Closures	
Town Centre/ Neighbourhood Centre	17.64ha	0.65ha	23.95ha	0.65ha	+6.31ha
Residential	290.47ha	4.05ha	286.86ha	4.05ha	-3.61ha
Community Facilities/Education/ Utilities	8.04ha	0.31ha	3.22ha	0.31ha	-4.82ha
Public Open Space	88.84ha	1.41ha	90.96ha	1.41ha	+2.12ha
Environmental Protection Area	188.27ha	5.77ha	188.27ha	5.77ha	NIL
<b>TOTALS</b>	<b>593.26 ha</b>	<b>12.19 ha</b>	<b>593.26 ha</b>	<b>12.19 ha</b>	<b>NIL</b>

The parts of the site affected by MOD 4 and which require an update to the Concept Plan are shown on **Figure 3**.

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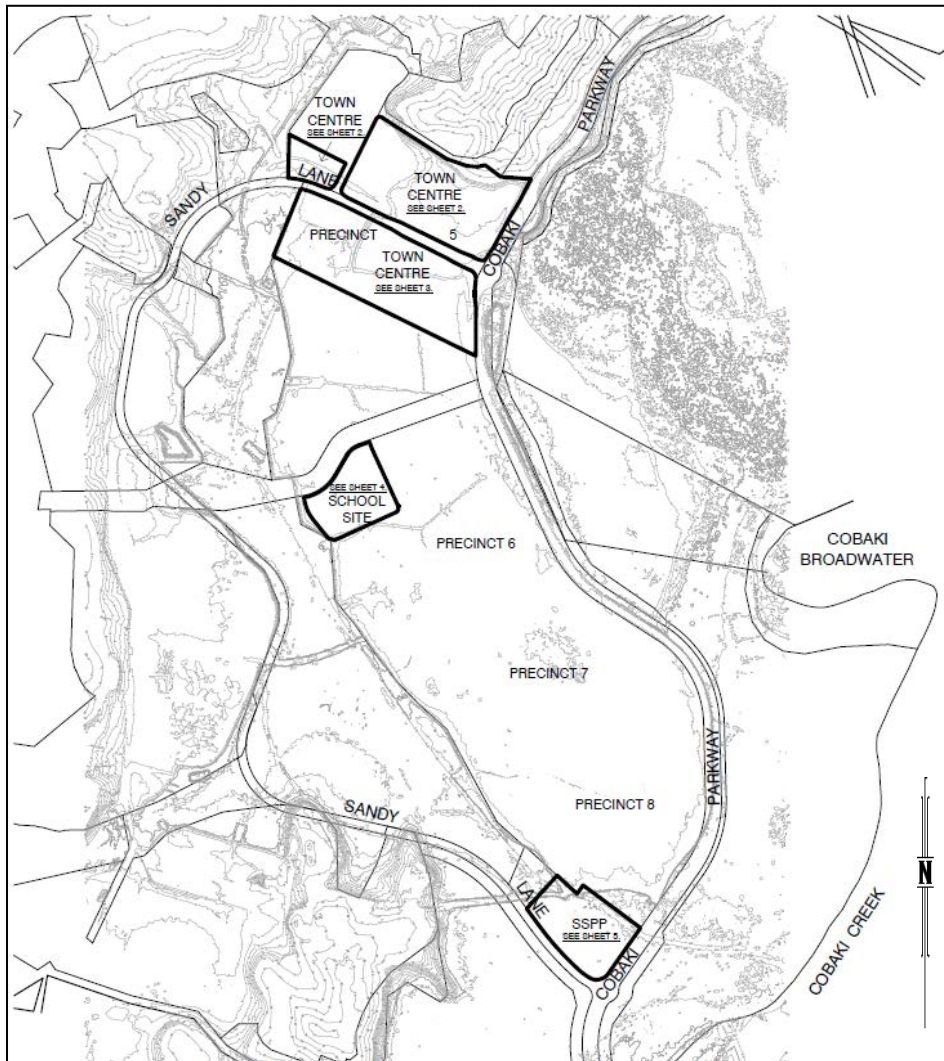


Figure 3 – Parts of Cobaki Estate Subject to MOD 4  
Source: Michel Group Services, December 2015

Further description and justification of the proposed modification, is provided in the following subsections.

#### 4.1 A Detailed Justification for the Proposed Modifications Having Regard to the Environmental Impacts, the Suitability of the Site and the Public Benefits

##### 4.1.1 New School Site In Precinct 6

The originally approved Cobaki Concept Plan provides for two primary school sites. One is located immediately adjacent to the Town Centre and Cobaki Parkway at the northern end of the site. The other school site is adjacent to the Neighbourhood Centre (Shops) and the Cobaki Parkway at the southern end of the site (see **Figure 4**).

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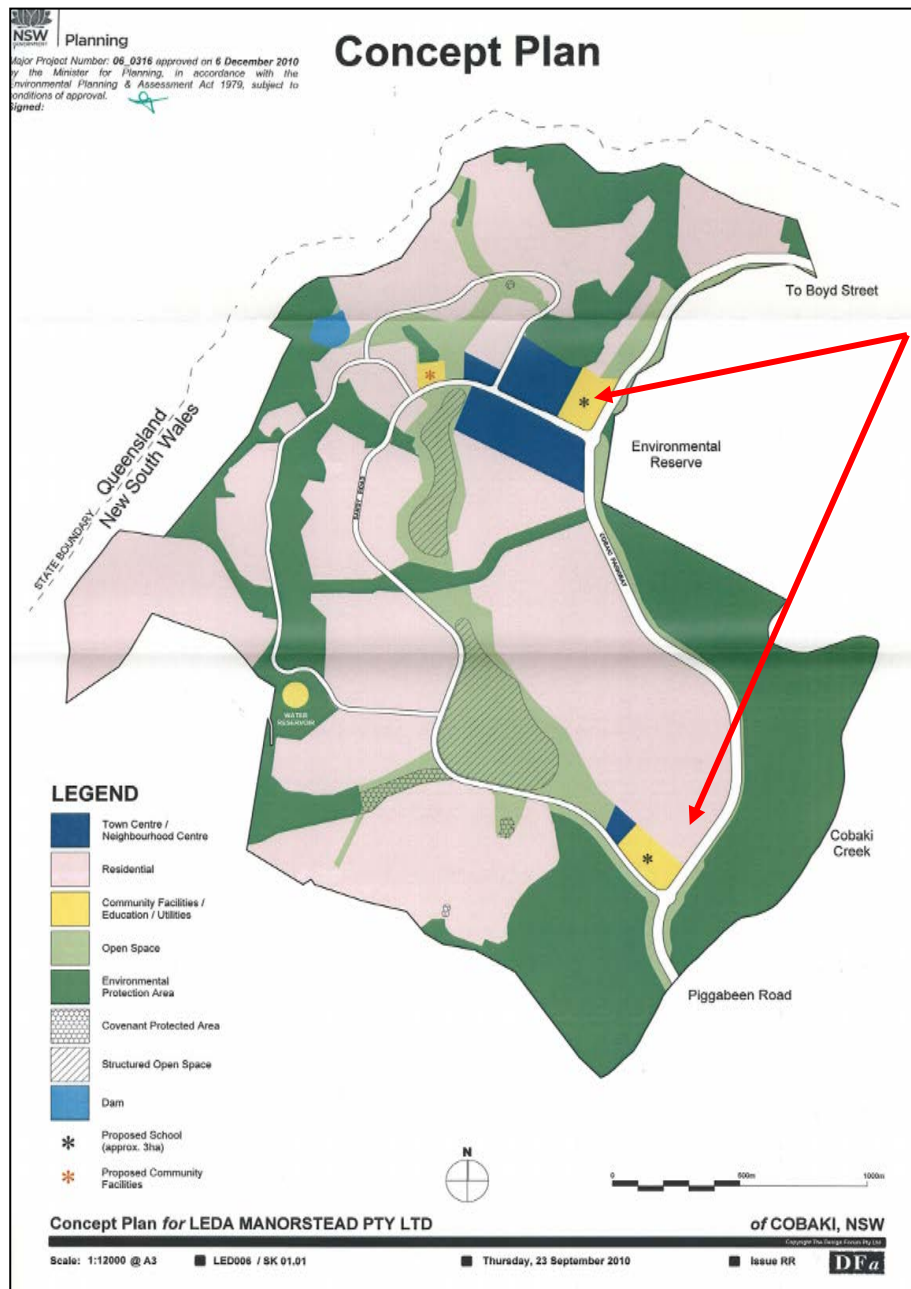


Figure 4 – Location of Originally Approved School Sites  
Source: Cobaki Estate Concept Plan 2010

In the period since the Concept Plan was approved, the proponent has been advised by the NSW Department of Education that it no longer requires two primary school sites within the Cobaki Estate.

The NSW Department of Education has confirmed that the proposed location, size and shape of the single primary school site in Precinct 6 will be adequate (see **Annexure J**).

The location of the proposed new school site is shown on the amended Concept Plan at **Figure 5**.

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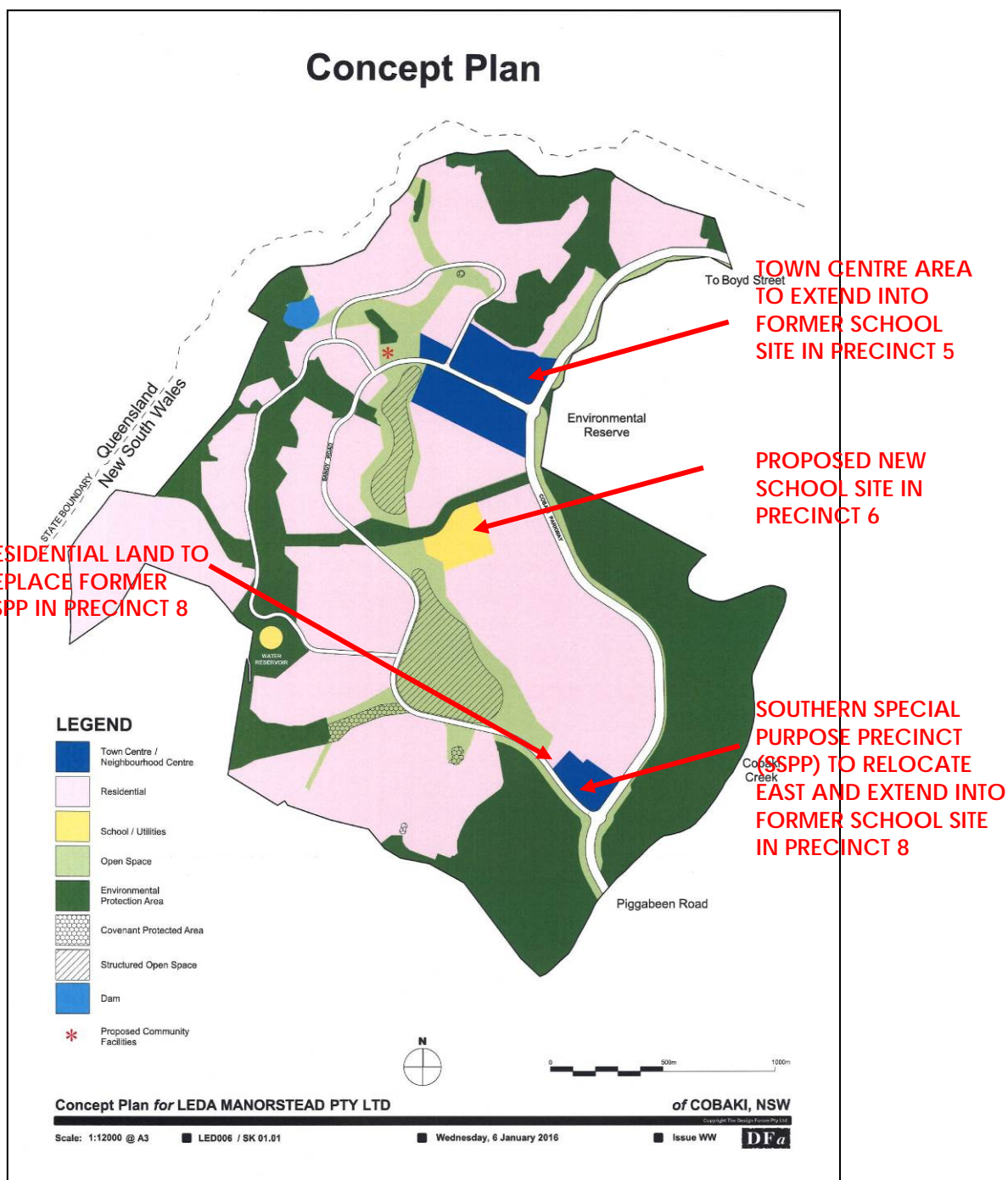


Figure 5 – Location of Proposed MOD 4 School Site and Consequential Amendments  
Source: Leda Manorstead Pty Ltd

In selecting a new school site, consideration was given to the proposed site grades and accessibility to the central open space area of the site and the internal north-south roads and pedestrian access network.

The proposed school site is not subject to bushfire, flood hazards, has no history of being potentially contaminated and will be fully serviced with access to all normal infrastructure including reticulated water, sewer, electricity, telecommunications and road frontages.

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The proposal to relocate the school sites within the Cobaki Concept Plan Approval is considered to be justified on the grounds that it will meet the projected needs of the NSW Department of Education to provide a single centralised school site. As the Cobaki Development is located in proximity to the Tweed and Gold Coast Regions where there are numerous non-government schools established, there is also limited demand for the provision of additional private schools within the area.

In any case, the proposed modification will not preclude the future development of other schools by virtue of SEPP Infrastructure 2007, under which development for the purpose of an educational establishment remains permissible, with development consent, on the urban zones within the Cobaki Estate.

#### **4.1.2 Town Centre Modification in Precinct 5**

In order to replace the former Northern School Site, the MOD 4 proposal is to extend the town centre to the east, adding approximately 3 hectares for Town Centre uses.

This proposal to increase the area of the Town Centre will provide additional employment opportunities within the Cobaki Estate and opportunities for positive urban design outcomes in the future development adjacent to the main northern entry to the site. The increased area of the town centre will also allow for additional medium density shop-top housing to be located in proximity to the services of the town centre.

The residential area in Precinct 4 to the north of the originally approved Northern School Site is located on an elevated ridgeline which captures ocean views to the east. Precinct 4 is to be accessed via the entry road to Precinct 2, to the west. The proposed use of the originally approved Northern School Site as a practical extension of the Town Centre will not create any adverse impact upon the future residential amenity of Precinct 4.

#### **4.1.3 SSPP Modification and Inclusion of a Registered Club and Child Care Centre in Precinct 8**

The Southern School Site and the adjoining Neighbourhood Centre within the original Cobaki Concept Plan are known as the SSPP.

The MOD 4 proposal includes conceptual planning for a Registered Club and Child Care Centre development at the southern intersection of Cobaki Parkway and Sandy Lane as alternative uses to the originally approved Southern School Site.

The proposed Registered Club and Child Care Centre development would provide a range of entertainment and recreational facilities for future residents of the development area and would not undermine the retail hierarchy of the Town Centre.

Investigations into the size and suitability of the site to be used for the purpose of a Registered Club have been completed. The location of the proposed Registered Club and Child Care Centre is illustrated in **Figure 6**.



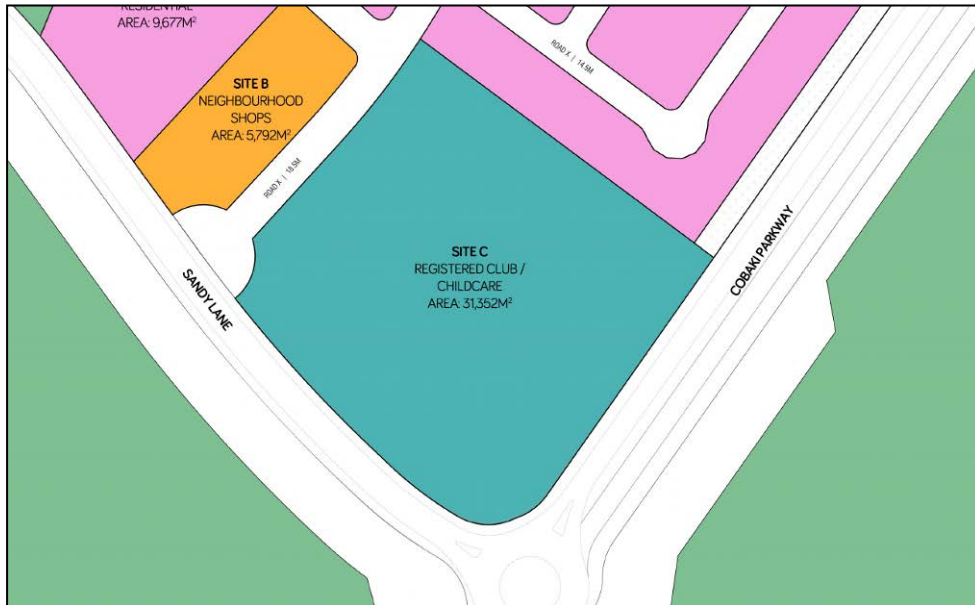


Figure 6 – Illustration of the Proposed MOD 4 Registered Club & Child Care Site  
Source: Planit Consulting, December 2015

The Registered Club and Child Care Centre use is proposed on the eastern side of the SSPP to provide an appropriate opportunity for a built form and urban design outcome to be achieved at the key southern entry to the Estate.

A neighbourhood connector road to Sandy Lane is proposed to separate the Registered Club and Child Care Centre site from the relocated Neighbourhood Centre on the western side. The location of the proposed neighbourhood centre site allows access from the lower order road, which will also provide access to the Registered Club and Child Care Centre site.

An illustration of the revised configuration of the SSPP and its integration with the residential urban design of Precinct 8, immediately to the north, is shown in **Figure 7**.



Figure 7 – Illustration of the Proposed MOD 4 SSPP  
Source: Planit Consulting, December 2015

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#### 4.1.4 Residential Area in Precinct 8

In order that the function of the Neighbourhood Centre operates subordinate to the proposed Town Centre, it is proposed that the remaining land within the western part of the originally approved SSPP, be utilised for residential purposes.

The former site of the Neighbourhood Centre is adjacent to Sandy Lane, the Central Open Space corridor and is well located in relation to the modified SSPP and transportation links. For these reasons the site is capable and suitable for use as residential land, and lends itself to a medium density development. Appropriate controls to shape the future development of the site are contained within the Cobaki Development Code and the SEPP 65 Apartment Design Guide.

The designation of the site for residential purposes will therefore provide an opportunity to optimise residential densities in proximity to the facilities of the SSPP, the central open space facilities and transport linkages including cycleways and public transport routes.

#### 4.1.5 Cultural Heritage Parks in Precinct 8

The Cultural Heritage Management Plan (CHMP) approved under the originally approved Concept Plan allowed for a total of 3 Cultural Heritage Parks across the Sand Ridge area in Precinct 8. The Parks were intended to provide “an easily discernible and tangible representation of the Sand Ridge and the known archaeological deposit” (see **Figure 8**).



Figure 8 – Location of Originally Approved Precinct 8 Cultural Heritage Parks  
Source: Everick, March 2016

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However the location and size of the Cultural Heritage Parks was made prior to availability of the site dating results (analysis and dating of sand). With the benefit of now having these sand dating results, a revision to the Concept Plan CHMP is appropriate in order to site the parks to increase the area of protection of the known archaeological deposit which returned dates of approximately 30,000-40,000 years. Options to alter the shape, size, number and location of the Cultural Heritage Parks within Precinct 8 have been discussed with Aboriginal stakeholder groups.

The proposed modification to the number and size of the parks represents a decrease in the number of parks from 3 parks to 2 parks, but increased the area of protection of the oldest archaeological deposit from 7,471.65m<sup>2</sup> to 8,073.92m<sup>2</sup>. The proposed modification to the Cultural Heritage Parks within Precinct 8 also partially maintains the visual connection between the two parks as a representation of the former sand ridge (see **Figure 9**).



Figure 9 – Location of Proposed MOD 4 Precinct 8 Cultural Heritage Parks  
Source: Everick, March 2016

The modified detail of the Precinct 8 Cultural Heritage Parks is provided in the Revised Cultural Heritage Parks Report attached as **Annexure K** and Amended Aboriginal Cultural Heritage Management Plan attached as **Annexure L**.

#### 4.1.6 Relocate the Council Community Facilities to the Town Centre

Following discussions held with Tweed Shire Council, after issuing of the SEARs in October 2015, it has been established that the relocation of the Council community facilities to the Town Centre is no longer desirable. That element of the proposed modification will not proceed.

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As a result, the proposed community facilities site will remain in the originally approved location adjacent to Precinct 17. No further assessment is required in this regard.

#### **4.1.7 Alter Condition C14 'Restriction on Cats' to Allow the Keeping of Cats Subject to Existing Council Regulations**

Condition C14 of the Concept Plan Approval effectively prohibits the keeping of domestic cats. The issue of domestic cat ownership is a significant matter for the future population of the development.

A Report regarding the keeping of cats and appropriate cat management measures within residential areas has been prepared by JWA Ecological Consultants and is attached as **Annexure B**.

The Report concludes that the keeping of domestic cats as pets has been demonstrated to have positive social benefits, whilst acknowledging the negative impacts of cats on native wildlife. Measures to address the negative impacts of domestic cats are provided by existing requirements for domestic cats to be microchipped and other normal enforcement measures available to Council including active control of stray cats where necessary.

#### **4.2 Identification and Analysis of Alternatives and the Associated Environmental Impacts**

Options to replace the Northern School Site are limited considering its location at the main northern road intersection within the estate and adjoining the future Town Centre. Due to the limited amenity for any future ground floor residential uses, the only logical option is to incorporate that land into an expanded Town Centre. This retains the ability to provide appropriate shop-top housing and will provide an opportunity to provide an appropriate built form response to the northern entry of the site. Details of subdivision and building design are matters to be considered in future Development Applications to be assessed on their merits.

Options to replace the southern school were influenced by the need for the SSPP to function as a Neighbourhood Centre, subordinate to the proposed Town Centre. To achieve this outcome the MOD 4 proposal provides for the Neighbourhood Centre to be supported by the entertainment and recreational amenity of a registered club, with the remaining land within the western part of the originally approved SSPP, to be utilised for residential purposes.

The siting of the proposed new school site in Precinct 6 is a result of direct consultation with the NSW Department of Education to achieve key site selection criteria. The relocated school site is centrally located and is in proximity to the central open space area and the Town Centre. On this basis, the investigation of further alternative sites was not considered necessary.

The Cultural Heritage Management Plan (CHMP) approved under the originally approved Concept Plan allowed for a total of 3 Cultural Heritage Parks across the Sand Ridge area in Precinct 8. A number of configurations were considered in forming the modified Cultural Heritage Park configuration to capture the most "high value" land which returned dates of approximately 30,000-40,000 years ago. Options to alter the shape, size, number and location of the Cultural Heritage Parks within Precinct 8 have been discussed with Aboriginal stakeholder groups to arrive at the proposed MOD 4 Precinct 8 Cultural Heritage Parks.

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### 4.3 The Relationship of the Proposed Modifications to the Approved Development at Cobaki

On 6 December 2010 the Minister for Planning granted Concept Approval No. 06\_0316 for the carrying out of:

- Residential development for approximately 5,500 dwellings;
- Town Centre and Neighbourhood Centre for future retail and commercial uses;
- Community facilities and school sites;
- Open space;
- Wildlife corridors;
- Protection and rehabilitation of environmentally sensitive land;
- Road corridors and utility services infrastructure;
- Water management areas; and
- Roads and pedestrian and bicycle network.

A Development Code was also approved under the Concept Plan which contains Exempt and Complying Provisions (Part A) and Development Controls (Part B).

A copy of the Concept Approval and Plan is contained at **Annexure C**.

On 29 May 2013 Concept Approval No. 06\_0316 MOD 1 was approved by the Minister's delegate.

The MOD 1 Approval included amendments concerning the timing of submission of various Management Plans for future Development Applications and an amendment to Condition C19 requiring details of Swamp Sclerophyll EEC offsets to be provided with the Development Application for works in Precinct 6. MOD 1 also revised the Statement of Commitments to reflect amendments to the biodiversity offset arrangements. A copy of the MOD 1 Instrument of Approval is attached as **Annexure D**.

On 20 April 2015 SEARs were issued for MOD 2 of Concept Approval No. 06\_0316. MOD 2 relates to a proposal to incorporate a university campus within the Cobaki Estate.

Two Development Consents (DA10/0800 and DA10/0801) have been granted by Tweed Shire Council under the Concept Plan, which together provide approval for the creation of 916 residential lots in Precincts 1, 2 and 6. To date only bulk earthworks associated with various development consents predating the Concept Plan Approval and the Central Open Space Project Approval MP08\_0800 has been commenced on the site.

On 10 December 2015, Development Application No. DA15/1026 was lodged with Tweed Shire Council for the staged development of Precincts 6, 7, 8, 9, 10, 11 and 12 of the Cobaki Estate. The plans accompanying the application are consistent with the proposed MOD 4 school site in Precinct 6, the MOD 4 SSPP and Precinct 8 Cultural Heritage Parks (see **Figure 8**).

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Figure 10 – Extract from Application Plan of DA15/1026  
Source: TSC Website

It is understood that in determining DA15/1026, Council and the Joint Regional Planning Panel are likely to include a condition of consent that DA10/0801, which relates to Precinct 6, is to be modified to be consistent with DA15/1026.

Having regard to the above, the MOD 4 proposal to relocate the school site and reconfigure the SSPP and the Town Centre, will not adversely affect the implementation of the existing development consents within those parts of the site.

## 5.0 CONSIDERATION OF ALL RELEVANT STATUTORY PROVISIONS

## 5.1 Environmental Planning and Assessment Act and Regulations

Section 75W of the Act facilitates the lodgement and determination of an application to modify a Part 3A Approval. Section 75W is in the following terms:

***"Modification of Minister's approval***

## 75W

- (1) *In this section:*

**Minister's approval** means an approval to carry out a project under this Part, and includes an approval of a concept plan.

- 
- Modification of approval** means changing the terms of a Minister's approval, including:
- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
  - (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.
- (2) The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.
  - (3) The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.
  - (4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.
  - (5) The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request with 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.
  - (6) Subsection (5) does not apply to a request to modify:
    - (a) an approval granted by or as directed by the Court on appeal, or
    - (b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.
  - (7) This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."

Currently there are no regulations of relevance to a Modification Application.

## **6.0 ASSESSMENT OF THE KEY ISSUES SPECIFIED**

### **6.1 Statutory and Strategic Context**

#### **6.1.1 State Environmental Planning Policy – State and Regional Development (2011)**

This State Environmental Planning Policy nominates a range of developments for which the Minister is the consent authority or determination is to be made by Regional Panels, depending on the class of development (type of use and value) and certain developments on specified sites.

Clause 8 of the Policy identifies State Significant Development as development described in Schedules 1 or 2. The Cobaki Estate development is not State Significant Development.

Clause 20 of the Policy identifies Regional Development as development described in Schedule 4A of the Environmental Planning and Assessment Act, 1979 (as amended). Given the scale of the Cobaki Estate development it is likely that some future Development Applications will meet the criteria set out in Schedule 4A, in which case those Development Applications would be determined by the Joint Regional Planning Panel.

#### **6.1.2 State Environmental Planning Policy (Infrastructure) 2007**

State Environmental Planning Policy Infrastructure (2007) applies to the site and allows for certain development, including educational establishments, to be undertaken as exempt or complying development, without consent, or with development consent.

The MOD 4 proposal does not rely upon SEPP Infrastructure for permissibility of the proposed school.

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### **6.1.3 State Environmental Planning Policy No.14 – Coastal Wetlands**

The parts of the Cobaki Estate subject to the MOD 4 proposal are not mapped as State Environmental Planning Policy No. 14 Coastal Wetland. The mapped wetland area is located on the eastern side of Cobaki Parkway. No further assessment in this regard is considered necessary.

### **6.1.4 Tweed Local Environmental Plan 2014**

The proposed modifications to the Cobaki Concept Plan relate to relocation of the school site and replacement urban land uses within the Town Centre and SSPP. The proposed modifications relate to land predominantly zoned R1 General Residential and B2 Local Centre under TLEP2014.

The existing school sites have an underlying R1 General Residential zoning. The majority of commercial uses including registered clubs are prohibited in the R1 General Residential zone.

Similarly, the western part of the SSPP which is to revert to residential uses under the Concept Plan, is zoned B2 Local Centre under TLEP2014. Residential development other than shop top housing is prohibited.

Notwithstanding the above, the Cobaki Estate is subject to a Part 3A Concept Plan Approval and Development Code. MOD 4 is not affected by the application of controls contained in TLEP2014 where they are inconsistent with the Concept Plan Approval.

The proposed MOD 4 inconsistency with TLEP2014 is considered to be justified on the basis that the Concept Plan was originally approved, based on the underlying zoning as at 2010, when all of these areas were zoned 2(c) under TLEP2000. A broad range of uses were permissible, with consent, under the 2(c) zone including shops and registered clubs, as well as residential development.

In this regard the inconsistency has been created by the adoption of the Standard Instrument equivalent zoning which, in any case, is set aside by the Concept Plan.

As occurred in the adoption of the TLEP2014, for consistency Tweed Shire Council is likely to adjust the underlying land use zones in the LEP to reflect the intensification of the Cobaki Concept Plan as part of a future housekeeping LEP amendment.

### **6.1.5 Tweed Development Control Plan 2008**

The Cobaki Estate is subject to a Part 3A Concept Plan Approval and Development Code.

Development in accordance with the approved Concept Plan is not affected by the application of policy controls contained in TDCP2008, where they are inconsistent with the Concept Plan Approval.

The Sections of TDCP2008 adopted wholly or in part by the Cobaki Development Code will continue to have effect.

### **6.1.6 Tweed Coast Comprehensive Koala Plan of Management**

The Tweed Coast Comprehensive KPoM was adopted by Tweed Shire Council on 19 February 2015 as a Strategy.

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Cobaki Estate is located within the boundaries of the KPoM study area, identified as the Tweed Coast Koala Study Area and is identified within the Tweed Heads Management Area, which is located north of the Tweed River. The KPoM does not list the Cobaki Estate site as a Koala Activity Precinct (KAP) or a Koala Linkage Precinct (KLP).

Appendix C of the KPoM contains provisions for offsetting impacts on Koala habitat resulting from development activities within the Tweed Coast Koala Study Area. Table 2 in Appendix C contains the offsetting provisions for developments which occur within the Koala Study Area but are not KAP's or KLP's and is therefore relevant to Cobaki Estate.

Any impacts to be addressed under the KPoM will be assessed at the Development Application stage.

#### **6.1.7 Permissibility**

The Cobaki Estate is subject to a Part 3A Concept Plan Approval and Development Code. MOD 4 is not affected by the application of controls contained in TLEP2014 where they are inconsistent with the Concept Plan Approval.

The approval of the MOD 4 Concept Plan and Development Matrix will provide permissibility for the intended land uses in accordance with those documents.

#### **6.1.8 Development Standards and Strategic Plans**

An assessment of the Mod 4 development against the strategic planning objectives of the documents titled: *NSW 2021, Far North Coast Regional Strategy, NSW Long Term Transport Master Plan 2012; NSW Bike Plan, Planning Guidelines for Walking and Cycling; and Healthy Urban Development Checklist*, NSW Health, are addressed in **Annexure E**.

### **6.2 Site Analysis and Land Use**

#### **6.2.1 Site Survey Plan that Identifies the Relevant Natural and Built Environmental Features Within and Adjoining the Site Including Site Boundaries, Levels and Identification of any Easements or Other Legal Affectations on the Title**

A Site Survey showing the location of the relevant parts of the site affected by MOD 4 has been prepared by Michel Group Services and is attached as **Annexure F**.

The plans identify the relevant natural and built environmental features within and adjoining the site including site boundaries and levels. There are presently no easements or legal affectations on the Title of the parts of the site subject to MOD 4.

The Cultural Heritage Parks were originally shown in the CHMP which accompanied the Concept Plan Approval. The modified detail of the Precinct 8 Cultural Heritage Parks are provided in the Revised Cultural Heritage Parks Report attached as **Annexure K** and Amended Aboriginal Cultural Heritage Management Plan attached as **Annexure L**.

#### **6.2.2 A revised Precinct Location Plan that identifies the proposed modifications to the boundaries of each stage and the timing for the delivery of the development and land uses, number of dwellings and activities contained in each stage**

A MOD 4 Precinct Location Plan has been prepared by DegenhartSHEDD Architects and is attached as **Annexure G**.

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In summary, the boundaries of the Precinct Location Plan have been slightly modified to reflect a more logical staging of construction in the area of Precincts 6 – 8.

Relevant information in relation to land uses, number of dwellings and activities contained in each stage are included on the Concept Plan and Development Matrix also attached as **Annexure G**.

**6.2.3 A revised Development Matrix identifying the approved and proposed land uses, floor space areas, floor space ratios, total gross floor area and site coverage as relevant to each stage of the development**

A MOD 4 Development Matrix has been prepared DegenhartSHEDD Architects and is attached as **Annexure G**.

In summary, the Development Matrix has been adjusted to insert Registered Club as a Development Use within the Town Centre/Neighbourhood Centre Concept Plan Domain. The areas associated with each Concept Plan Domain have been adjusted to reflect the reconfiguration of the school sites.

**6.2.4 A plan depicting the proposed modifications to the approved Concept Plan, including land uses**

A MOD 4 Concept Plan has been prepared by DegenhartSHEDD Architects and is attached as **Annexure G**.

In summary, the Concept Plan has been adjusted to show the location of the new school site in Precinct 6 and the adjusted boundaries of the Town Centre and Neighbourhood Centre Concept Plan Domains.

**6.2.5 The modification request must also include consideration of the privacy impacts of the proposed development, any amenity impacts within the foreshore areas, any overshadowing impacts within existing or proposed public reserves, and loss of views from public places. A high level of environmental amenity must be demonstrated, including within the public domain**

The location of the proposed new school site in Precinct 6 has been selected to manage the impacts of the proposed school, including impacts upon the amenity of the surrounding future residential development. In this regard the new school location adjoins the east-west fauna corridor to the north. The other frontages are to be public roads. The central open space area will be located to the west of the site.

The Precinct 4 development site is elevated in relation to the Town Centre and is provided with coastal views to the east. Due to the difference in levels between Precinct 4 and the Town Centre, the proposed extension to the Town Centre to consume the former northern school site at the intersection of Cobaki Parkway and Sandy Lane, will not adversely impact upon the amenity of residential land in Precinct 4 to the north.

The reconfiguration of the SSPP in Precinct 8 will be unlikely to adversely impact upon the amenity of the surrounding area. The potential amenity impacts between the proposed Registered Club site (3 hectares) and the residential land within Precinct 8 to the north, will be addressed in the detailed plans and reports to be provided with a future Development Application.

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Similarly, the amenity impacts associated with the proposed residential area at the western end of the SSPP are capable of being satisfactorily addressed at the future Development Application stage. It is likely that the residential land to the west of the SSPP will be suitable for a medium density residential development which will be able to effectively respond to the site opportunities and constraints to optimise residential density in proximity to the transport routes and facilities associated with the neighbourhood centre.

## **7.0 BUILT FORM AND URBAN DESIGN**

### **7.1 The modification request must demonstrate how the proposed development will integrate into the surrounding context**

The modification is to the Concept Plan. The Cobaki Estate is a 600 hectare greenfield development site with no existing structures in proximity to the proposed school site, Town Centre or SSPP. The building height controls will not be altered as part of MOD 4 and the development footprint remains identical. The design of the future development at the school site, Town Centre and SSPP will be controlled by the existing Cobaki Development Code and will be subject to a Part 4 Development Application to be assessed by Tweed Shire Council.

The siting of the proposed uses under the MOD 4 Application are consistent and will integrate with the surrounding road network, open space areas and future residential development.

#### **7.1.1 A Building Envelope Study which provides a comparative analysis of the height limits and building setbacks contemplated under the approved Concept Plan and the proposed modification**

The MOD 4 Application will not alter the originally approved Height Limit Map under the Concept Plan Approval. Accordingly, the future development within the Town Centre and SSPP will provide a range of building heights to a maximum of three storeys. A Building Envelope Study is not necessary in this instance as MOD 4 maintains the existing approved situation.

As per the current Concept Plan Approval and Cobaki Development Code, side and rear setbacks within the non-residential areas are to be in accordance with the "Plan of Development" which will be prepared to accompany a future Development Application for subdivision.

#### **7.1.2 Any modifications required to the Cobaki Estate Development Code, Height Control and Open Space Plans approved under the Concept Plan required to facilitate the proposed modification**

The required modifications to the Cobaki Estate Development Code are limited to replacing the Concept Plan, Development Matrix, Precinct Plan, Open Space Network Plan, Access Network Plan and Potential Bus Route with the updated versions of those plans. The amended Plan sheets are attached as **Annexure G**.

No change is proposed to the Building Height Map.

#### **7.1.3 Identify and justify any changes to the approved open space network**

The change proposed to the approved Open Space Network Plan relates only to the location of the school site and reconfigured Town Centre and SSPP.

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While the location of the proposed Community Facility building to be located adjacent to Precinct 17 is not altered, the underlying domain has been changed from Community Facilities/Education/Utilities to Public Open Space. The proposed Community Facility is a nominated "Development Use" under the Development Matrix within the Cobaki Development Code and better reflects and controls the intended development of that land which is ultimately to be dedicated to Tweed Shire Council.

## 8.0 TRANSPORT AND ACCESSIBILITY

The SEARs require the provision of a revised Traffic Concept Plan, which includes the following information:

- Detailed plans of the proposed layout of the internal road network and onsite parking in accordance with the relevant Australian standards;
- Analysis of any proposed changes to the road network approved under the Concept Plan;
- Modelling of any traffic impacts associated with the proposed modifications to the Concept Plan, including an estimate of the total daily and peak hour vehicle trips generated by the new uses proposed within the Town Centre;
- An assessment of the impacts of all modifications to the approved road network and infrastructure, and use of the Austroads Guidelines to identify appropriate mitigation measures;
- Identification of any funding required to facilitate any road upgrade or road improvement works (if required);
- An assessment of any impacts on the functionality of the Tugun Bypass and the Boyd Street intersections, and identification of any traffic mitigation measures required at these locations;
- An assessment of the impacts of any proposed modifications to the Access Network and Potential Bus Route Plan approved under the Concept Plan; and
- An assessment of the adequacy of the existing public transport services to meet the likely future demand of the proposed development.

Bitzios Consulting – Traffic Engineers have completed a detailed Transport and Accessibility Report in relation to MOD 2, which was associated with the university proposal in the Cobaki Estate. The matters required by the SEARs are adequately addressed by the modelling undertaken by Bitzios. A copy of the Report and a covering letter from Bitzios Consulting in relation to MOD 4 is provided as **Annexure E**.

Trip generation from the primary school was included in the AM peak Paramics modelling. The school PM peak will occur earlier than the commuter peak and was not modelled, however the network is expected to have sufficient capacity outside of the commuter peak.

The school (assumed 800 students) was included in the strategic modelling (ie. EMME modelling).

During the planning phase for the road network, consideration was given to ensuring that the roads surrounding the school contained sufficient width such that a bus can safely travel to/from the school from all directions to Cobaki Parkway/Sandy Lane.

During the planning phase, consideration was also given to the provision of shared parking arrangements with Open Space (formal playing fields) whereby large expanses of at-grade parking could be shared by both the sporting and school uses.

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Suitable pedestrian crossing facilities from these parking areas towards the school was also given consideration along with the provisioning of pick-up/set down facilities along kerbside areas fronting the school boundary.

In summary, the existing traffic arrangements and road network planning will be suitable to accommodate the MOD 4 proposal, as the MOD 4 proposal essentially involves reconfiguration of urban land uses within the existing approved development footprint.

## 9.0 VISUAL IMPACTS

### 9.1 Provide a Visual Impact Assessment, which includes a comparative analysis of the visual impacts of the approved Concept Plan and the proposed modification. The Visual Impact Assessment must be prepared in accordance with the principles outlined in *Tenacity Consulting v Warringah Council (2004)*

There are presently no buildings erected upon the Cobaki Development site. The grades of the site in the vicinity of the new school site, the town centre and the SSPP are relatively level. In addition, since the final form of the future buildings to be erected on the site are not known it is not possible to undertake a Visual Impact Assessment in accordance with the principles outlined in *Tenacity Consulting v Warringah Council (2004)*.

The proposal will maintain the currently approved building height limit and development footprint of the Concept Plan Approval. Accordingly it is submitted that, compared to the existing approved situation, the potential visual impact of the MOD 4 proposal, is minimal.

The modified Precinct 6 school site is likely to have frontages to either open space or road reserve. Therefore the site is capable of accommodating a contemporary primary school with generous setbacks to surrounding residential uses which will minimise visual impact upon surrounding land uses.

In relation to the proposed registered club and child care centre the proponent has provided the following information from the organisation that has reached an agreement with Leda.

*"In considering the amenity impacts of a new suburban Registered Club it is relevant to consider that a modern Club is on the scale of a typical modern suburban hotel with similar street presence. The proposal at Cobaki lends itself to these modern trends and the corner site invites the visual offer to come from the location rather than the mass of the property.*

*A recent example in Sydney is the Lantern Club which is approximately 3500 sqm of GFA spread over two levels and blended into a sloping site. From the street the Club offers a contemporary profile, easy access and high ceilings in the single floor public space.*



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*Modern clubs tend to offer two bars, one or two dining options, lounge, meeting space and gaming room. Lounges and function spaces are multipurpose catering to all of the community needs and entertainment requirements. Patronage is on scale with these facilities.*

*To control the environment and patronage modern clubs and hotels have defined edges and limited ingress points. Where outdoor areas do exist they are physically bounded and focussed towards points of least community impact, carparks, parklands and commercial uses. These principles would be easily achieved on the subject site with its boundary uses. The Mill Hotel in Sydney depicts an example of these concepts.*



*The site at Cobaki also lends itself to internalisation. A further trend in controlling operations and environments at venues is having the ability to bring all of the offer within the building at will. Designing spaces which can enjoy the natural attributes of the environment but yet be closed in to respond to weather, time of day, noise and other external factors is an ideal response to the Cobaki site.*

*The Kenmore in Brisbane.*

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*The Bankstown Sports Club*



*The site at Cobaki proposed for a Registered Club and Childcare is ideal to be able to enhance the amenity of the suburban setting and is selected to respond to and mitigate any potential adverse impacts from the uses.*

*The proposed club site is bounded to the south and southwest by floodplains which are uninhabitable and uses which will generate noise and vehicular movements would be concentrated in these directions.*

*To the north the site would be utilised for carparking and access off the adjoining roadway, it has a commercial proposal in the form of a neighbourhood centre as the nearest use.*

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*To the east the Club is buffered by the childcare centre, a compatible and complementary use in terms of times of operations, the ability to concentrate car movements within the common site and is then further buffered from the nearest residential lot by an acoustic fence.*

*It would be anticipated that in a suburban setting such as Cobaki that the times of operation of the licensed venue and arrangements such as security and transport would be determined by the relevant licensing authority.*

*A modern club, as set out above, would be on a scale that is relevant to the site and market, would be formally bounded by controlled access points and would have the ability to be internalised as required and appropriate.*

*The childcare facility is likewise well positioned to ensure minimal impacts on neighbours. Residential neighbours are minimal in numbers and would be buffered through an acoustic fence line. The centre would be focussed to take advantage of the commercial neighbour with outdoor uses and play areas directed towards the Club.*

*The proposed club and roadways on the remaining sides are both ideal for access, away from residential lots, minimising noise, light and vehicular traffic.*

*The hours of operation would likely result in a highly compatible use of the common parking and circulation facilities and see the use of the child care cease in the period prior to the peak trade within the Club facility.*

*The closure of the childcare over the weekends is also positive in terms of the residential neighbours ensuring that any impacts are concentrated during the working week and daylight hours and weekends are without any adverse impacts. This day of use relationship with the club use is also positive.*

*Both uses will attract strong local utilisation and the facilities will be accessible to many by walking, bicycles and mobility aids.*

*The site was specifically identified to minimise impacts, retain amenity whilst optimising the visual presence of the facilities at a gateway to the estate."*

## **10.0 FUTURE DEMOGRAPHICS**

### **10.1 Provide A Future Demographics Analysis which includes: modelling of any changes to demographics arising from the proposed modification**

The MOD 4 proposal will provide a net reduction in residential land of 3.61 hectares. The area of the Town Centre will increase by 6.31 hectares.

As shop top housing is encouraged within the Town Centre and since the development area remains identical, the overall impact upon the future demographics of the area and the total number of tenements to be achieved is unlikely to be altered.

### **10.2 An assessment of the facilities and services required to support the future population as envisaged under the revised development concept**

The school site has been relocated to reflect the requirements of the NSW Department of Education and the area of the Town Centre has been increased. The MOD 4 proposal will also facilitate the inclusion of a Registered Club within the SSPP to add to the entertainment and recreational needs of the future residents.

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The MOD 4 proposal will maintain the potential for achievement of the same future population. Accordingly, the proposed increase to the size of the Town Centre will ensure the ability to provide improved facilities and services over those already allowed for within the Concept Plan Approval.

**10.3 An assessment of the impacts of the revised development concept on existing facilities in the locality, having regard to the centres hierarchy envisaged under the Tweed Retail Strategy**

The MOD 4 proposal has been mindful of the need to maintain the retail hierarchy both within the site and within the context of the region.

The inclusion of a Registered Club within the SSPP and the maintenance of neighbourhood scale services and residential uses within the SSPP will support the function of the Town Centre. The increased area of the Town Centre to incorporate the former school site is unlikely to threaten the other existing centres within the region.

**11.0 EDUCATIONAL INSTITUTION**

**11.1 Identification of development triggers and applicable requirements (including timing) associated with the dedication of the school site**

The school site within Precinct 6 will be part of the initial release area. The site will therefore be developed as part of that initial release.

The Department of Education has advised that the timing of its acquisition of the site will be clarified through strategic planning for the Tweed School Cluster, considered high priority work planned for completion by June 2016.

The proponent's position is that the school site will not be dedicated, but is to be acquired by the Department on commercial terms to be agreed or settled under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 No. 22.

**12.0 CONTRIBUTIONS**

**12.1 Address Council's relevant Section 94A Contribution Plan and/or details of any Voluntary Planning Agreement required to support the proposed modifications to the Concept Plan**

Tweed Shire Council Section 94 Contribution Plans are in effect and will, where relevant, apply to the future development within the Cobaki Estate. No amendments are required to the Contribution Plans to address matters included in MOD 4.

**13.0 ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

**13.1 Detail how ESD principles (as defined in Clause 7 of Schedule 2 of the Environmental Planning and Assessment Regulation 2000) will be incorporated into the design of the development**

Subclause 4 of Clause 7 in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000* is in the following terms:

*"(4) The principles of ecologically sustainable development are as follows:*

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- (a) the **precautionary principle**, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
    - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
    - (ii) an assessment of the risk-weighted consequences of various options,
  - (b) **inter-generational equity**, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,
  - (c) **conservation of biological diversity and ecological integrity**, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
  - (d) **improved valuation, pricing and incentive mechanisms**, namely, that environmental factors should be included in the valuation of assets and services, such as:
    - (i) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
    - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
    - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems."

The parts of the site affected by the MOD 4 proposal are within the development footprint of the Cobaki Concept Approval. The various conditions of the Concept Approval have addressed the ecological impacts of the urban development to be implemented under the Concept Plan.

The MOD 4 proposal will not raise any additional issues associated with precautionary principle, inter-generational equity, conservation of biological diversity and ecological integrity, or improved valuation, pricing and incentive mechanisms. Accordingly, the MOD 4 proposal will remain consistent with the ESD principles applied in the approval of the original Cobaki Estate Concept Plan.

### **13.2 Include a description of the measures that would be implemented to minimise consumption of water and energy use of future buildings**

Future residential building will be subject to the requirements of BASIX Certification to demonstrate energy and water efficiency.

Commercial buildings will be subject to compliance with Part J of the Building Code of Australia.

In addition to the above requirements, the Cobaki Development Code requires that each dwelling is to provide rainwater harvesting for demand management as per the table shown as **Figure 11**.

#### Rainwater Harvesting for Demand Management, Tank and Connected Roof Minimums

Development Type/Size	Connected Roof Area	Minimum Tank Size
Detached Dwelling >=450m <sup>2</sup> Lot	160m <sup>2</sup> minimum	5000L
Zero-lot Dwelling 250 m <sup>2</sup> lots (min)	Min 85% of roof up to 160m <sup>2</sup>	3000L
Terrace Dwelling 175m <sup>2</sup> lots (min)	Min 85% of roof up to 160m <sup>2</sup>	2000L (3000L if space permits)
Plex (each dwelling) 2 – 5 on 450m <sup>2</sup> lot (min)	Min 85% of roof up to 160m <sup>2</sup>	2000L Site Min 5000L Can be common
Mews (each dwelling) 3 – 6 on 500m <sup>2</sup> lot (min) (lot can be Torrens Title subdivided further)	Min 85% of roof up to 160m <sup>2</sup>	2000L No common tank without a body corporate or single owner.
SOHO Dwelling 250m <sup>2</sup> lots (min)	Min 85% of roof up to 160m <sup>2</sup>	3000L
Multiple Unit Developments, Commercial, Industrial	80 – 90% of roof area	Common tank sized proportionate to building size.

Figure 11 - Extract from Annexure C of the Cobaki Development Code  
 Source: Cobaki Development Code

The MOD 4 proposal will not alter these approved arrangements.

### 13.3 Detail any proposed alternative water supply, proposed end uses of potable and non-potable water, demonstration of water sensitive urban design and any water conservation measures.

As discussed above, future development within the Cobaki Estate will include rainwater harvesting for demand management. The MOD 4 proposal will not alter these approved arrangements.

## 14.0 NOISE AND VIBRATION

### 14.1 Identify the main noise and vibration generating sources on-site and existing sources of noise. Outline measures to minimise and mitigate potential noise and vibration impacts on land within and adjacent to the Concept Plan area. This should also include consideration of existing road traffic noise and aircraft noise from the Gold Coast Airport.

The main source of noise which would affect future residential amenity is associated with road traffic noise on the Cobaki Parkway and to a lesser extent, Sandy Lane. Other potential sources of noise include future commercial land uses such as those to be located within the Town Centre and SSPP. Development in those parts of the site are subject to future design which will consider the sites' opportunities and constraints and will also be assessed by Tweed Shire Council as part of Development Applications in accordance with the normal statutory requirements.

External sources of noise include the Pacific Motorway (Tugun Bypass) and the Gold Coast Airport.

The nature of the proposed MOD 4 land uses will not introduce any additional sensitive land uses closer to, or increase the impacts associated with, the Gold Coast Airport or the Pacific Highway.

The proposed additional residential land to the west of the SSPP site will be subject to acoustic assessment and nomination of appropriate building treatments to achieve the required acoustic mitigation of potential road traffic noise at the Development Application stage for subdivision to create lots in that location.



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## 15.0 STORMWATER AND DRAINAGE

### 15.1 Provide revised stormwater and flood modelling which identifies the impacts, if any, of the proposed modification

Sedgman – Consulting Engineers, have reviewed the stormwater and flood impacts resulting from the MOD 4 proposal and have provided a letter, which is attached as **Annexure H**.

In summary, Sedgman has advised that the MOD 4 proposal will not impact upon the size, shape or levels of the Central Open Space drainage corridor as approved under the Concept Plan and that the parts of the site affected by MOD 4 are located above flood level. On this basis no further flood modelling is necessary and no changes are required to the existing Stormwater Management Concept under the Concept Plan Approval.

### 15.2 Provide a revised Stormwater Management Concept Plan which identifies any changes to the stormwater management concept arising from the proposed modification

As discussed above, Sedgman – Consulting Engineers, have reviewed the stormwater impacts resulting from the MOD 4 proposal and have provided a comment, which is attached as **Annexure H**.

In summary there are no changes required to the Stormwater Management Concept under the Concept Plan to accommodate the MOD 4 proposal and therefore a revised Stormwater Management Concept Plan is not necessary.

## 16.0 DOMESTIC CATS

### 16.1 Identify and incorporate detail of all regulatory controls relevant to the management of domestic cats at the Cobaki site. Detail how the application and enforcement of these controls will be applied across the estate

The proponent has provided the following information in relation to the keeping of domestic cats at the Cobaki Estate:

*“Issues in relation to the keeping of cats at Cobaki were not raised in any of the reports that formed part of the Concept Plan application or in any of those that accompanied the subsequent Preferred Project Report.*

*In response to the public exhibition of the Cobaki Estate Concept Plan in 2009, no submissions were received from any State Agency or Tweed Shire Council to the effect that the keeping of domestic cats at Cobaki should be prohibited.*

*Only two submissions were received from members of the public advocating such a prohibition.*

*Leda volunteered this restriction. (How this occurred cannot be determined as the relevant staff of JBA Consulting, who dealt with the application, are no longer with the organisation). In no meaningful sense was this restriction considered as a component of a package of biodiversity conservation measures as part of the Concept Plan approval.*

*Nevertheless, the Concept Plan approval of 6 December 2010 included the following condition:*

#### **C14 Restrictions on Cats**

*All future development applications must demonstrate that the keeping of cats within the Cobaki Lakes site shall be totally prohibited and that all residential lots are to be encumbered to the effect with a Section 88B instrument under the NSW Conveyancing Act 1919.*

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*The Proponent now seeks to have this condition removed.*

*The Proponent has obtained a report by JWA Pty Ltd, Ecological Consultants – The Keeping of Cats and Appropriate Cat Managing Measures within Residential Areas, November 2014 - which contains the following conclusion:*

*"It is considered that the keeping of cats within residential developments can be achieved with minimal impact to native wildlife by the implementation of appropriate community education (outlining the precautionary approach underlying cat controls), applying management regulations and implementing active control of stray cats where necessary".*

*Tweed Shire Council's webpage ([www.tweed.nsw.gov.au/cats](http://www.tweed.nsw.gov.au/cats)) provides information on the registration and micro chipping of cats and guidelines for cat ownership.*

*A restriction on the keeping of cats is not a condition normally applied by Tweed Shire Council to subdivisions within the Shire, or by other local Councils throughout NSW.*

*It is submitted that a prohibition on the ownership of cats at Cobaki Estate is unnecessary and unreasonable."*

*It is important that the social benefits of cat ownership be taken into consideration. There is a strong emotional connection between cat-owners and their pets, and the many positive psychosocial effects associated with cat ownership have been documented.*

*A complete ban on cat ownership would be a disproportionate response to any environmental damage associated with the keeping of cats. A selective ban lacks a broader policy foundation. In the Tweed Shire and in the NSW community generally there is no general move to ban cats in either existing or new urban developments.*

*Tweed Shire Council itself promotes responsible cat ownership."*

A copy of the report prepared by JWA Ecological Consultants is attached as **Annexure B**. Pamphlets which Tweed Shire Council currently distributes are also included in **Annexure B**.

Existing regulatory controls relating to the keeping of domestic cats include the following Acts:

*NSW Companion Animals Act 1998* - Provides under Part 2 for the compulsory identification and registration of companion animals. Part 4 of that Act specifically refers to responsibilities for control of cats including actions to protect persons and animals against cats. Part 7A relates to enforcement powers and Part 8 for identification and registration procedures.

*Impounding Act 1993* – Provides power to impound animals which are unattended in public places.

*Local Government Act 1993* – Provides power for Council to erect and enforce notices restricting the taking of animals into a public place and to make orders restricting the number of animals to be kept at premises.

In order to minimise negative impacts on wildlife from keeping of domestic cats at Cobaki Estate the applicant is prepared to accept a modified condition whereby all future residential lots to be created under the Concept Plan are to be encumbered with a Section 88B Instrument under the *NSW Conveyancing Act 1919* to the effect that:

- the keeping of cats on any residential premises shall be restricted to a maximum of two cats, and

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- between the hours of 5.00pm of a day and 6.00am of the day following, any cat shall be kept within the premises or an enclosure within the lot, such that the cat is prevented from leaving the premises or lot.

The proposed modification to Condition C14 *Restriction on Cats* is provided in **Section 23** of this Report.

## **17.0 SERVICING**

### **17.1 Prepare a Utilities and Infrastructure Servicing Report which identifies the capacity of existing/approved infrastructure and any augmentation of this infrastructure required as a result of the proposed modification.**

In relation to the infrastructure requirements resulting from the MOD 4 proposal, a report on Electrical and Telecommunication Infrastructure has been prepared by MDA Consulting Engineers (**Annexure I**) and Sedgman – Consulting Engineers have provide comment on the sewer and water infrastructure (**Annexure H**).

In summary the MOD 4 proposal will not alter the previously approved infrastructure arrangements or upgrade requirements to be provided for the Cobaki Estate.

## **18.0 CONSULTATION**

Consultations have been undertaken with Tweed Shire Council, Gold Coast City Council, Office of Environment and Heritage, NSW Environment Protection Agency, NSW Department of Education, Queensland Department of Education Training and Employment, Australian Government Department of Education and Training, Queensland Airports Limited- Gold Coast Airport and Office of Liquor, Gaming and Racing.

Leda Manorstead Pty Ltd has prepared a Consultation Report, a copy of which is attached as **Annexure J**.

## **19.0 DESCRIPTION OF THE EXISTING ENVIRONMENT**

The Cobaki Estate comprises predominantly cleared grazing land with pockets of forest vegetation. Substantial bulk earthworks have been undertaken on the site, however no buildings have been erected. Currently the site is not being used for cattle grazing. However, the landowner has not abandoned its existing use rights for grazing, other than for that part of the site commonly referred to as the salt marsh area.

Complete details of the ecological significance of the subject vegetation are provided in the Ecological Reports which informed the Concept Plan Approval.

The proposed modifications to the Concept Plan (to relocate the school site to Precinct 6 and reconfigure the Town Centre and Neighbourhood Centre land uses), are unlikely to impact significantly on the existing environment.

## **20.0 ASSESSMENT OF THE POTENTIAL IMPACTS OF ALL STAGES OF THE MODIFICATION, INCLUDING ANY CUMULATIVE IMPACTS, TAKING INTO CONSIDERATION EXISTING APPROVALS, RELEVANT GUIDELINES, POLICIES, PLANS AND STATUTES**

The proposed MOD 4 development will effectively reconfigure the urban uses within the originally approved development footprint due to the relocation of the school site.

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It is submitted that the cumulative impact of the proposed modification, which does not alter the existing development footprint and is unlikely to alter the number of residential tenements to be achieved, will be negligible.

The proposed modification of the Cultural Heritage Parks within Precinct 8 will result in improved protection of area of higher cultural value.

**21.0 DESCRIPTION OF THE MEASURES THAT WOULD BE IMPLEMENTED TO AVOID, MINIMISE, MITIGATE AND IF NECESSARY, OFFSET THE POTENTIAL IMPACTS OF THE DEVELOPMENT, INCLUDING PROPOSALS FOR ADAPTIVE MANAGEMENT AND/OR CONTINGENCY PLANS TO MANAGE SIGNIFICANT RISKS TO THE ENVIRONMENT**

Future development of the Cobaki Estate under the Concept Plan requires obtaining of development consents from Tweed Shire Council under Part 4 of the EP&A Act, 1979.

The Development Application process and the subsequent development consents will specify the detailed Management Plans to avoid, minimise, mitigate or if necessary, offset the potential impacts of the development.

The keeping of cats in urban areas is able to be managed on a consistent and Shire wide basis under the Companion Animals Act 1998, Council Policy and enforcement.

**22.0 IMPACTS OF THE MODIFICATION, INCLUDING CUMULATIVE IMPACTS**

The MOD 4 proposal relating to relocation of the school site and the replacement land uses within the originally approved development footprint, are likely to result in only minor impacts. Impacts associated with traffic management, acoustic and visual impacts have been considered in the proposed reconfiguration of land uses under the Concept Plan.

The proposed modification of the Precinct 8 Cultural Heritage Parks will result in a net increase in the amount of land protected and will capture land containing the oldest dated archaeological deposits.

An Ecological Assessment considering the keeping of domestic cats and appropriate management measures within residential areas accompanies the application (**Annexure B**). The keeping of domestic cats in residential areas may be appropriately managed and does not warrant outright prohibition.

Having regard to the nature of the requested modifications, it is submitted that the impacts of the MOD 4 proposal are minimal and are unlikely to lead to unreasonable cumulative impact.

**23.0 DESCRIPTION OF AMENDMENTS REQUIRED TO THE APPROVED DOCUMENTATION**

**23.1 Condition A2**

Existing Condition A2:

***"A2 Project in Accordance with Plans***

*The project is to be undertaken generally in accordance with the following drawings:*

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Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
LED006/ SK 01.01	RR	Concept Plan-for Cobaki	23 September 2010
LED006/ SK01.02	CC	Development Matrix	23 September 2010
LED006/ SK 01.03	FF	Cobaki Lakes Height Controls	23 September 2010
LED006/ SK 01.05	EE	Cobaki Lakes Access Network Plan and Potential Bus Route	23 September 2010
LED006/ SK 01.07	P	Cobaki Lakes Open Space Network Plan	23 September 2010
LED006/ SK 01.09	BB	Precinct Location Plan	23 September 2010
LED006/SK 01 06	I	Road Hierarchy Plan	11 June 2010
6400-184C Sheets 1 & 2		Cobaki Lakes Areas To Be Protected By Covenant	13/9/2010

except for:

- (1) any modifications which may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the terms of this approval."

For the reasons identified within this Modification Request Report, the Department is requested to modify Condition A2.

Amended Condition A2:

**"A2 Project in Accordance with Plans**

The project is to be undertaken generally in accordance with the following drawings:

Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
LED006/ SK 01.01	WW	Concept Plan	6 January 2016
LED006/ SK01.02	DD	Development Matrix	22 December 2015
LED006/ SK 01.03	FF	Cobaki Lakes Height Controls	23 September 2010
LED006/ SK 01.05	FF	Access Network Plan and Potential Bus Route	22 December 2015
LED006/ SK 01.07	Q	Open Space Network Plan	22 December 2015
LED006/ SK 01.09	GG	Precinct Location Plan	6 January 2016
LED006/SK 01 06	I	Road Hierarchy Plan	11 June 2010
6400-184C Sheets 1 & 2		Cobaki Lakes Areas To Be Protected By Covenant	13/9/2010

except for:

- (1) any modifications which may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the terms of this approval.

## 23.2 Condition A3

Existing Condition A3 (as modified by MOD 1 on 29 May 2013):

**"A3 Project in Accordance with Documents**

The project is to be undertaken generally in accordance with the following documents:

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- 
- 1) *Environmental Assessment*
    - a. *Cobaki Lakes Estate Concept Plan Environmental Assessment Report prepared by JBA Urban Planning Consultants P/L, Volumes 1, 2, 3 and 4 December 2008.*
  - 2) *Preferred Project Report*
    - a. *Preferred Project Report prepared by JBA Urban Planning Consultants P/L, Volumes 1, 2 and 3, October 2009*
    - b. *Addendum to Preferred Project Report prepared by JBA Urban Planning Consultants P/L, June 2010*
  - 3) *Additional Information*
    - a. *Final Cobaki Lakes Aboriginal Cultural Heritage Assessment prepared by Everick Heritage Consultants P/L, April 2010*
    - b. *Final Cobaki Lakes Cultural Heritage Management Plan prepared by Everick Heritage Consultants P/L, April 2010*
    - c. *Revised Site Regeneration and Revegetation Plan prepared by James Warren and Associates P/L, April 2013*
    - d. *Revised Saltmarsh Rehabilitation Plan prepared by James Warren and Associates P/L, April 2013*
    - e. *Cobaki Estate Development Code*
    - f. *Revised Ecological Assessment prepared by James Warren and Associates P/L, April 2013*
    - g. *Revised Assessment of Significance prepared by James Warren and Associates P/L, April 2013*
  - 4) *Modification Request*
    - a. *Modification Report prepared by Darryl Anderson Consulting Pty Ltd, dated November 2012*
    - b. *Response to Submissions Report prepared by Darryl Anderson Consulting dated 18 April 2013*
    - c. *Revised Final Statement of Commitments, May 2013"*

For the reasons identified within this Modification Request Report, the Department is requested to modify Condition A3 as follows.

Amended Condition A3:

**A3 Project in Accordance with Documents**

The project is to be undertaken generally in accordance with the following documents:

- 1) *Environmental Assessment*
  - a. *Cobaki Lakes Estate Concept Plan Environmental Assessment Report prepared by JBA Urban Planning Consultants P/L, Volumes 1, 2, 3 and 4 December 2008.*
- 2) *Preferred Project Report*
  - a. *Preferred Project Report prepared by JBA Urban Planning Consultants P/L, Volumes 1, 2 and 3, October 2009*
  - b. *Addendum to Preferred Project Report prepared by JBA Urban Planning Consultants P/L, June 2010*
- 3) *Additional Information*
  - a. *Final Cobaki Lakes Aboriginal Cultural Heritage Assessment prepared by Everick Heritage Consultants P/L, April 2010*
  - b. *Final Cobaki Lakes Cultural Heritage Management Plan prepared by Everick Heritage Consultants P/L, April 2010*
  - c. *Revised Site Regeneration and Revegetation Plan prepared by James Warren and Associates P/L, April 2013*
  - d. *Revised Saltmarsh Rehabilitation Plan prepared by James Warren and Associates P/L, April 2013*
  - e. *Cobaki Estate Development Code*

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- f. Revised Ecological Assessment prepared by James Warren and Associates P/L, April 2013
  - g. Revised Assessment of Significance prepared by James Warren and Associates P/L, April 2013
- 4) Modification Request
- a. Modification Report prepared by Darryl Anderson Consulting Pty Ltd, dated November 2012
  - b. Response to Submissions Report prepared by Darryl Anderson Consulting dated 18 April 2013
  - c. Revised Final Statement of Commitments, May 2013.
- 5) Modification Request
- a. Modification Report prepared by DAC Planning Pty Ltd, dated May 2016
  - b. Aboriginal Cultural Heritage Management Plan – Everick Heritage Consultants, March 2016 and Revised Cultural Heritage Parks Report – Everick Heritage Consultants, March 2016
- 6) The Cobaki Development Code is modified to include the MOD 4 updated plans as follows:
- Concept Plan prepared by DegenhartSHEDD Architects dated 6 January 2016,
  - Development Matrix, prepared by DegenhartSHEDD Architects dated 22 December 2015,
  - Precinct Plan, prepared by DegenhartSHEDD Architects dated 6 January 2016,
  - Open Space Network Plan prepared by DegenhartSHEDD Architects dated 22 December 2015, and
  - Access Network Plan and Potential Bus Route prepared by DegenhartSHEDD Architects dated 22 December 2015

### 23.3 CONDITION C4

Consolidated Condition C4 (including MOD 1 on 29 May 2013):

#### **C4 Management and Restoration Plans**

- (1) All future applications are to include, where relevant, draft stage-specific management plan updates to the Site Regeneration and Revegetation Plan, Freshwater Wetland Rehabilitation Plan, Fauna Management Plan, Vegetation Management Plan, Scribbly Gum Management Plan, Principal Buffer Management Plan, Landscape Concept Plan, Stormwater Concept Plan, Cultural Heritage Management Plan, Preliminary Acid Sulfate Soils Management Plan providing, where relevant, details on timelines for implementation of recommended works including maintenance periods, funding arrangements 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 each plan can be implemented without negatively impacting on the objectives of another.
- (2) **Construction Environmental Management Plan (CEMP)**  
All future applications are to include draft stage-specific CEMPs that detail measures to address the impacts of construction including, but not limited to: erosion and sediment control (in accordance with Managing Urban Stormwater-Soils & Construction Version 4, Landcom 2004, or the latest version); protection of fauna (generally in accordance with the Fauna Management Plan - Cobaki Lakes PPR 2009); groundwater and acid sulfate soils; and, protection of trees and vegetation to be retained (generally in accordance with the Vegetation Management Plan, Cobaki Lakes PPR 2009).

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**(3) Restoration Plans**

*Draft detailed regeneration and revegetation plans for each Rehabilitation and Management Precinct as detailed in the Site Regeneration and Revegetation Plan (SRRP) are to be prepared as per the SRRP.*

*These detailed plans for each Rehabilitation and Management Precinct, as well as the Revised Saltmarsh Rehabilitation Plan and Freshwater Wetland Rehabilitation Plan are to include, but not be limited to:*

- a. performance objectives detailing measurable performance and completion criteria;*
- b. Detailed planting species list, composition and density for each vegetation community and, for EECs to be rehabilitated, this is to include ground, mid and canopy species and species composition must be bench marked against a reference EEC community;*
- c. Details on creek bank erosion management;*
- d. timing and responsibilities; and*
- e. developer maintenance period reflecting completion criteria.*

**(4) Buffer Management Plan**

*The draft stage-specific Buffer Management Plans are to be prepared as per the Overview Buffer Management Plan - Cobaki Lakes - Preferred Project Report (James Warren & Associates 2009) including, but not limited to, rehabilitation and revegetation strategies, bushfire protection measures, weed management, fencing, biodiversity and water quality monitoring and reporting.*

**(5) Flora and Fauna Monitoring Plan**

*Updates to the Flora and Fauna Monitoring Report are to be provided in accordance with the draft outline to be approved by the Director-General.*

For the reasons identified within this Modification Request Report, the Department is requested to modify Condition C4 as follows.

Amended Condition C4:

**C4 Management and Restoration Plans**

- (1)** All future applications are to include, where relevant, draft stage-specific management plan updates to the Site Regeneration and Revegetation Plan, Freshwater Wetland Rehabilitation Plan, Fauna Management Plan, Vegetation Management Plan, Scribbly Gum Management Plan, Principal Buffer Management Plan, Landscape Concept Plan, Stormwater Concept Plan, **as amended by Aboriginal Cultural Heritage Management Plan – Everick Heritage Consultants, March 2016 and Revised Cultural Heritage Parks Report – Everick Heritage Consultants, March 2016** Preliminary Acid Sulfate Soils Management Plan providing, where relevant, details on timelines for implementation of recommended works including maintenance periods, funding arrangements 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 each plan can be implemented without negatively impacting on the objectives of another.

**(2) Construction Environmental Management Plan (CEMP)**

All future applications are to include draft stage-specific CEMPs that detail measures to address the impacts of construction including, but not limited to: erosion and sediment control (in accordance with Managing Urban Stormwater-Soils & Construction Version 4, Landcom 2004, or the latest version); protection of fauna (generally in accordance with the Fauna Management Plan - Cobaki Lakes PPR 2009); groundwater and acid sulfate soils; and, protection of trees and vegetation to be retained (generally in accordance with the Vegetation Management Plan, Cobaki Lakes PPR 2009).



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### (3) Restoration Plans

Draft detailed regeneration and revegetation plans for each Rehabilitation and Management Precinct as detailed in the Site Regeneration and Revegetation Plan (SRRP) are to be prepared as per the SRRP.

These detailed plans for each Rehabilitation and Management Precinct, as well as the Revised Saltmarsh Rehabilitation Plan and Freshwater Wetland Rehabilitation Plan are to include, but not be limited to:

- a. performance objectives detailing measurable performance and completion criteria;
- b. Detailed planting species list, composition and density for each vegetation community and, for EECs to be rehabilitated, this is to include ground, mid and canopy species and species composition must be bench marked against a reference EEC community;
- c. Details on creek bank erosion management;
- d. timing and responsibilities; and
- e. developer maintenance period reflecting completion criteria.

### (4) Buffer Management Plan

The draft stage-specific Buffer Management Plans are to be prepared as per the Overview Buffer Management Plan - Cobaki Lakes - Preferred Project Report (James Warren & Associates 2009) including, but not limited to, rehabilitation and revegetation strategies, bushfire protection measures, weed management, fencing, biodiversity and water quality monitoring and reporting.

### (5) Flora and Fauna Monitoring Plan

Updates to the Flora and Fauna Monitoring Report are to be provided in accordance with the draft outline to be approved by the Director-General.

## 23.4 Condition C14

### Existing Condition C14:

#### ***"C14 Restrictions on Cats***

*All future development applications must demonstrate that the keeping of cats within the Cobaki Lakes site shall be totally prohibited and that all residential lots are to be encumbered to this effect with a Section 88B instrument under the NSW Conveyancing Act 1919."*

For the reasons identified within this Modification Request Report, the Department is requested to delete Condition C14.

### Amended Condition C14:

#### **C14 Restrictions on Cats**

**All future development applications must demonstrate that the keeping of cats at any residential premises within the Cobaki Lakes site shall be restricted to a maximum of two cats and that between the hours of 5.00pm of a day and 6.00am of the day following, any cat shall be kept within the premises or an enclosure within the lot, such that the cat is prevented from leaving the premises or lot. All residential lots are to be encumbered to this effect with a Section 88B Instrument under the NSW Conveyancing Act 1919."**

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## 23.5 Condition C15

### Approved Condition C15 Cultural Heritage Management Plan

#### **C15 Cultural Heritage Management Plan**

*All future applications for each stage of development are to demonstrate the implementation of the recommendations of the Cultural Heritage Management Plan, including the requirement for site specific management strategies for each of the identified sites of cultural heritage significance as they relate to the area of the application.*

For the reasons identified within this Modification Request Report, the Department is requested to delete Condition C15.

#### Amended Condition C15:

#### **C15 Cultural Heritage Management Plan**

All future applications for each stage of development are to demonstrate the implementation of the recommendations of the Cultural Heritage Management Plan **as amended by Aboriginal Cultural Heritage Management Plan – Everick Heritage Consultants, March 2016 and Revised Cultural Heritage Parks Report – Everick Heritage Consultants, March 2016** including the requirement for site specific management strategies for each of the identified sites of cultural heritage significance as they relate to the area of the application.

## 23.6 Statement of Commitment 11

### Approved Statement of Commitment 11

<b>Project Component</b>	<b>Environmental Outcome</b>	<b>Commitment</b>	<b>Timing for Completion</b>
11. Aboriginal Cultural Heritage Conservation	11.1 Aboriginal cultural heritage on the site is appropriately conserved.	11.1.1 The requirements of the Cultural Heritage Management Plan (CHMP) (Everick, April 2010) will be implemented in relevant areas.	All stages of work.

For the reasons identified within this Modification Request Report, the Department is requested to delete Statement of Commitment 11.

#### Amended Statement of Commitment 11

<b>Project Component</b>	<b>Environmental Outcome</b>	<b>Commitment</b>	<b>Timing for Completion</b>
11. Aboriginal Cultural Heritage Conservation	11.1 Aboriginal cultural heritage on the site is appropriately conserved.	11.1.1 The requirements of the Cultural Heritage Management Plan (CHMP) (Everick, April 2010) <b>as amended by Aboriginal Cultural Heritage Management Plan – Everick Heritage Consultants, March 2016 and Revised Cultural Heritage Parks Report – Everick Heritage Consultants, March 2016</b> , will be implemented in relevant areas.	All stages of work.

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## **24.0 AN ESTIMATE OF THE JOBS THAT WILL BE CREATED BY THE DEVELOPMENT DURING THE CONSTRUCTION AND OPERATIONAL PHASES OF THE PROPOSED MODIFICATIONS**

The proposed modification will not alter the extent of the approved development footprint approved under the Concept Plan.

Accordingly the reconfiguration of the approved land uses is unlikely to significantly alter the jobs to be created by the development which is possible under the originally approved Concept Plan.

## **25.0 SUMMARY AND CONCLUSION**

The Cobaki Estate comprises a major Urban Release Area which will ultimately deliver up to 5500 dwellings and a range of associated commercial services and facilities. The Cobaki Estate Concept Plan will facilitate development of the site in an orderly, co-ordinated and economic manner.

The MOD 4 Application is required to rationalise the provision of school sites. The modified school site meets the general requirements of the NSW Department of Education including size, shape and location in proximity to future sports fields.

The proposed modification relocates the school site to Precinct 6 and provides replacement Town Centre and Neighbourhood Centre land uses and facilitation of a Registered Club on the original school sites. The associated reduction in size of the SSPP will make the excess land available for residential development.

The application includes amended conditions to give effect to the relevant plans and consequential amendments to the Development Code.

The proposed deletion of Condition C14 is supported by a report prepared by JWA Ecological Consultants, which outlines the social benefits of domestic cat ownership in urban areas, outlines the impacts associated with feral cats on native fauna and provides a range of management measures. The keeping of domestic cats is also able to be suitably controlled under the powers provided by existing legislation and by a modified condition placing restrictions on cat ownership.

The proposed modification to the number and size of the Cultural Heritage Parks within Precinct 8 has been based on analysis of sand dating, the results of which were only available after approval of the Concept Plan. The modified proposal will increase the area of protection of the oldest archaeological deposit, notwithstanding that the number of separate parks is reduced from 3 parks to 2 parks.

The proposed modifications to the relevant Conditions A2, A3, C14 and C15 of the Concept Plan have been prepared to give effect to MOD 4.

It is therefore concluded, having regard to the foregoing Environmental Assessment, that the project is generally consistent with relevant statutory planning controls and compliant with contemporary urban design standards and ESD principles. Approval of MOD 4 would therefore be sustainable and in the public interest.

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