

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation, I approve the modification of the concept plan approval referred to in schedule 1, subject to the conditions in schedule 2.



Heather Warton
Director
Metropolitan and Regional Projects North

Sydney

29 May

2013

SCHEDULE 1

Concept Plan Approval:

06_0316 granted by the then Minister for Planning on 6 December 2010

For the following:

Residential subdivision, Cobaki Estate, Tweed Local Government Area

Modification:

06_0316 Mod 1: The modification includes the following:

- amendments to term A3 of the approval amending the approved concept plan documents;
- amendments to term C1 of the approval amending the Plan of Development requirements;
- amendments to term C4 of the approval amending the timing for submission of management plans;
- amendments to term C7 of the approval amending the timing for submission of geotechnical assessments;
- a new term C19 requiring details of Swamp Sclerophyll EEC offsets to be provided with the development application for works in Precinct 6; and,
- a revised Statement of Commitments to reflect amendments to the biodiversity offset arrangements.

SCHEDULE 2

The above approval is modified as follows:

SCHEDULE 2

PART A

- 1) Delete term A3 and replace with new term A3 as follows:

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
 - 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

PART C

- 2) Amend term C1 as follows:

C1 *Plan of Development*

- a) Delete term C1(2) and replace with new term C1(2) as follows:

(2) A notation on fire affected lots that development is subject to the requirements of 'Planning for Bushfire Protection 2006' and AS3959-2009 Construction of Buildings in Bushfire Prone Areas.

b) Amend term C1(4) by deleting the words "Fill and"

3) Amend term C4 as follows:

C4 *Management and Restoration Plans*

- a) Amend term C4(1) by deleting the words "stage-specific" in the first sentence and inserting the words "draft stage-specific"
- b) Amend term C4(2) by deleting the words "stage-specific" in the first sentence and inserting the words "draft stage-specific"
- c) Amend term C4(3) by deleting the word "Detailed" in the first sentence and inserting the words "Draft detailed"
- d) Amend term C4(4) by deleting the words "stage-specific" in the first sentence and inserting the words "draft stage-specific"

4) Amend term C7 as follows:

C7 *Geotechnical Assessments*

Amend term C7(1) by deleting the words "detailed geotechnical assessment" in the first sentence and inserting the words "preliminary geotechnical assessment"

5) Insert new term C19 as follows:

C19 *Biodiversity Offsets*

- (1) Details of biodiversity offsets for the loss of Swamp Sclerophyll Endangered Ecological Community on the site must be submitted with any development application for works in Precinct 6.
 - (2) Total offsets for Swamp Sclerophyll on Coastal Floodplain must be as follows:
 - a. 6.77ha on-site in accordance with the approved Revised Ecological Assessment, April 2013; plus
 - b. additional lands¹ either on-site and/or off-site to compensate for the loss of the offset (as a result of 06_0316 MOD 1), of an area as agreed with OEH.
- ¹ Note: The department has noted that using the biobanking calculator, this offset could be in the order of 16 hectares.

SCHEDULE 3

STATEMENT OF COMMITMENTS

- 6) Delete the Final Statement of Commitments dated 4 November 2010 and replace with the Revised Statement of Commitments dated 8 May 2013, attached.

Schedule 3 – Revised Statement of Commitments (8 May 2013) – Cobaki Concept Approval

Project Component	Environmental Outcome	Commitment	Timing for Completion
1. Concept Plan	1.1 Development is carried out generally in accordance with the approved Concept Plan and Development Code	1.1.1 Every application for subdivision to create separate lots is to include a plan indicating the broader context of the application. This indicative plan will show: <ul style="list-style-type: none"> ♦ actual and proposed densities by precinct (or other identified nodes); ♦ the distribution or indicative distribution of surrounding open space/parks; ♦ connector roads; and ♦ trunk stormwater drainage. 	At each relevant stage of development.
2. Visual impact	2.1 Key attributes of the natural visual landscape of the Cobaki Estate site (being the topographical amphitheatre, remnant band of bushland, Cobaki Broadwater forest and wetland, and proposed new central open space precinct) are retained and rehabilitated.	2.1.1 In those areas of the site not proposed for urban development the natural landscape will be retained and rehabilitated where applicable in accordance with the relevant environmental management plans appended to the Concept Plan and Development Code.	At each relevant stage of development.
	2.2 The visual impact of subdivision and building development is managed.	2.2.1 Future project applications and development applications will be generally consistent with the development controls for the detailed design of subdivisions and buildings in each precinct as set out in the Cobaki Development Code.	At each relevant stage of development.
3. Road access	3.1 Road access to the north through Boyd Street and Gold Coast Highway has capacity to accommodate traffic generated by such development that occurs under the Concept Plan.	3.1.1 The proponent will meet its legal obligations assigned in the Boyd Street Road Works Deed between Gold Coast City Council and Calsonic Management Services Pty Ltd dated 8 July 1993.	As specified in the Deed.
		3.1.2 Every subdivision application will be supported by a traffic study demonstrating that Boyd Street has,	As part of each relevant Project Application or Development Application for subdivision

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		<p>at the time of the application, sufficient capacity to accommodate the additional traffic generated by the subdivision.</p> <p>3.1.3 The proponent will meet its obligations in the Deed between it and the State of Queensland acting through the Department of Main Roads dated 3 February 1997 in relation to the construction and use of a signalised intersection between Boyd Street and the Gold Coast Highway.</p>	As specified in the Deed.
		<p>3.1.4 The proponent will meet its legal obligations assigned in the Deed between Tweed Shire Council and Calsonic Management Services Pty Ltd dated 6 August 1993.</p>	As specified in the Deed.
	<p>3.2 Road access to the south through the Cobaki estate and over Cobaki Creek to connect with Piggabeen Road is provided to accommodate traffic generated by the development under the Concept Plan.</p>	<p>3.2.1 The proponent will dedicate to Council all the Cobaki Parkway Road Reserve from the north eastern boundary of the property to Cobaki Creek, in accordance with the approved Concept Plan. The cost of this land dedication, and the manner in which it will be treated as a credit against the proponent's obligations to pay contributions under Section 94, will be in accordance with the Deed between Tweed Shire Council and Calsonic Management Services.</p> <p>3.2.2 The proponent will construct two lanes of Cobaki Parkway, in accordance with Tweed Shire Council's requirements, from the toe of the ramp on the western side of the overpass at the intersection of Boyd Street and the Tugun Bypass to the southern-most roundabout on Cobaki Parkway at its intersection with Sandy Road. These works will be constructed progressively to access each phase of the development as it is released.</p>	<p>Progressively as the construction of relevant stages of two lanes of Cobaki Parkway is completed and in conjunction with Council accepting handover of each section of road. The initial dedication will be the road reserve from the Boyd Street Overpass to the roundabout between precincts 6 & 7.</p> <p>The proponent will dedicate the balance of the road reserve within five (5) years of the initial dedication.</p> <p>At each relevant stage of development.</p>

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		<p>3.2.3 The proponent will construct two lanes of Cobaki Parkway, in accordance with Tweed Shire Council's requirements, from the southern-most roundabout with Sandy Road to the Cobaki Creek, a two lane bridge over Cobaki Creek and a connection to Piggabeen Road.</p> <p>3.2.4 The proponent shall provide, in the subdivision design of Precincts 9 & 10, for the southern section of Sandy Road to connect to Piggabeen Road in order to provide an alternative connection to Cobaki Parkway.</p> <p>3.2.5 Road connection between Cobaki Parkway and Piggabeen Road, either via the Cobaki Creek Bridge or through Precincts 9 & 10, will not be opened to the public for vehicle access until such time as a tick control facility has been installed to the satisfaction of the NSW Department of Primary Industries.</p>	<p>In accordance with the proponent's development program, provided that such works shall be completed no later than 12 months after 3000 allotments have been created.</p> <p>When the development application or project application is submitted for the subdivision of Precincts 9 & 10.</p>
		<p>3.2.6 The proponent will meet its legal obligations assigned in the Deed between Tweed Shire Council and Calsonic Management Services Pty Ltd dated 6 August 1993.</p>	As specified in the Deed.
		<p>3.2.7 The proponent will in good faith enter into negotiations with Tweed Shire Council with the objective of completing, if necessary, a Deed between the parties replacing the Deed between Council and Calsonic Management Services Pty Ltd dated 6 August 1993.</p>	Upon approval of the Concept Plan.
	3.3 Internal roads and access arrangements are designed and constructed to contemporary standards of safety and efficiency.	<p>3.3.1 Internal roads, car parking and loading/servicing facilities will be designed and constructed in accordance with the Cobaki Development Code.</p> <p>3.3.2 Direct vehicle access off Cobaki Parkway to allotments will be restricted to one left in/left out point serving the Town Centre commercial/retail zone,</p>	As part of each stage of development.

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		subject to an approved traffic report confirming the acceptability thereof; No other lots will have direct access onto Cobaki Parkway.	
4. Flora and Fauna Management	4.1 Areas of saltmarsh on the site are rehabilitated and protected.	4.1.1 The provisions of the Revised Saltmarsh Rehabilitation Plan, (James Warren & Associates, April 2013) will be implemented.	Commencement of rehabilitation works prior to registration of any plan of subdivision. Works will proceed in a regular manner with the objective of achieving the timeline and milestones set out in the Revised Saltmarsh Rehabilitation Plan.
	4.2 Areas of Scribbly Gum trees are conserved and managed.	4.2.1 The provisions of the Scribbly Gum Management Plan, Cobaki Lakes, Preferred Project Report (James Warren & Associates, 2009g) will be implemented.	Commencement of management works prior to registration of any plan of residential subdivision. Works will continue in accordance with the requirements of the Scribbly Gum Management Plan.
	4.3 Native vegetation is regenerated.	4.3.1 The provisions of the Revised Site Revegetation and Regeneration Plan, (James Warren & Associates, April 2013) will be implemented.	Commencement of rehabilitation works prior to registration of any plan of residential subdivision for adjacent land. Work will then proceed in accordance with the Revised Site Regeneration and Revegetation Plan until they are completed and dedicated to Tweed Shire Council.
	4.4 Removal of native vegetation is appropriately managed.	4.4.1 The provisions of the Vegetation Management Plan, Cobaki Lakes, Preferred Project Report (James Warren & Associates, 2009d) will be implemented.	At relevant stages of development.
	4.5 Threatened fauna species are appropriately managed.	4.5.1 The provisions of the Revised Fauna Management Plan (James Warren & Associates, April 2013) will be implemented. 4.5.2 The provisions of the SEPP 44 Assessment – Cobaki Lakes - Preferred Project Report (James Warren & Associates, 2009h) will be implemented.	Commencement of works prior to registration of any plan of residential subdivision on or adjacent to the relevant fauna habitat. Works will continue in accordance with the Fauna Management Plan.

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Project Component	Environmental Outcome	Commitment	Timing for Completion
	4.6 Areas of native vegetation are protected.	4.6.1 The provisions of the Overview Buffer Management Plan – Cobaki Lakes - Preferred Project Report (James Warren & Associates, 2009i) will be implemented.	Commencement and progress of works prescribed in area-specific Buffer Management Plans prior to registration of any plan of residential subdivision. Works will be completed in accordance with the relevant buffer management plan.
	4.7 Freshwater wetlands are rehabilitated.	<p>4.7.1 A Freshwater Wetland Compensatory Habitat Management Plan and Wallum Froglet Compensatory Habitat Management Plan will be prepared to address the rehabilitation of 2 hectares of freshwater wetland on the eastern side of Cobaki Parkway. The Compensatory Habitat Management Plan will be approved by the General Manager of Tweed Shire Council or his delegate.</p> <p>4.7.2 Additional off-site offsets for impacts on Freshwater Wetlands and associated Wallum Froglet habitat will be the subject of a Planning Agreement as per Commitment 4.8.</p>	<p>The Freshwater Wetland Compensatory Habitat Management must be approved prior to commencing any works are may cause or contribute to the relevant impact.</p> <p>Commencement of rehabilitation works prior to registration of any plan of residential subdivision for adjacent land. The works will then proceed in accordance with the Revised Freshwater Wetland Compensatory Habitat Management Plan and Wallum Froglet Compensatory Habitat Management Plan, until they are completed and dedicated to Tweed Shire Council.</p>

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	4.8 Offsets will be provided for impacts on Freshwater Wetlands and associated Wallum Froglet habitat and on Swamp Sclerophyll on Coastal Floodplain EEC, for impacts resulting from approved bushfire hazard reduction works within native vegetation areas, and for any impacts on existing trees in the Scribbly Gum Reserve.	<p>4.8.1 The proponent will enter into separate Planning Agreements with OEH for the offset onsite and/or off site of the following impacts:</p> <ul style="list-style-type: none"> - on Freshwater Wetland and associated Wallum Froglet habitat and on Swamp Sclerophyll on Coastal Floodplain EEC; - from approved bushfire hazard reduction works within native vegetation areas; and - on existing trees within the Scribbly Gum Reserve should this occur. <p>4.8.2 Offsets for Swamp Sclerophyll on Coastal Floodplain will be as follows:</p> <ul style="list-style-type: none"> - 6.77ha on-site in accordance with the approved Revised Ecological Assessment, April 2013; and - such additional off-site offset, if any, as may be required by OEH. <p>The proponent will fulfil its obligations in accordance with these Planning Agreements.</p>	Before any works are commenced that may cause or contribute to the relevant impact.
5. Biting Midge & Mosquito Control	5.1 Biting midge and mosquitoes are appropriately managed.	5.1.1 The provisions of the Biting Midge & Mosquito Control Plan (Mosquito Consulting Services, May 2008) will be implemented.	Commencement of rehabilitation works prior to registration of any plan of residential subdivision for adjacent land. Works will then proceed in a regular manner with the objective of achieving the timeline and milestones set out in the Biting Midge & Mosquito Control Plan.
6. Stormwater and flood management	6.1 Stormwater on the site is appropriately managed.	6.1.1 Stormwater Management Plans, generally in accordance with the Stormwater Quality Concept Plan (Yeats, September 2010) and Council's DCP and referenced Development Design Specification D7-Stormwater Quality Version 1.3 will be prepared as part of future Development Applications and Project	

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		<p>Applications, and implemented.</p> <p>6.1.2 Water sensitive urban design (WSUD) measures may be implemented generally in accordance with the Stormwater Management Plan (Yeats 2010) in areas where geotechnical and slope parameters are compatible. Additional road reserve widths shall be provided in accordance with Council's standard road cross-sections to accommodate roadside drainage swales and similar WSUD measures where these are provided.</p>	
		<p>6.1.3 Erosion and sediment control plans shall be prepared and implemented as part of future project and development applications for each stage of development. These plans shall address the construction phase of the subdivision works, as well as interim measures for the subsequent urban development within each precinct, to remain in place until such time as permanent stormwater quality control measures can reasonably operate to the satisfaction of Council.</p>	
		<p>6.1.4 Downstream trunk drainage easements will be registered in favour of Council, and the construction and future construction of downstream trunk drainage infrastructure and its dedication to Council secured to the satisfaction of Council, as part of the subdivision certificate process for each relevant urban precinct. A six (6) month defects liability period for the trunk drainage shall commence at the time of dedication to Council.</p>	

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		6.1.5 The proponent will provide safety measures as required by Council around public stormwater drainage infrastructure in all cases where the design of the drainage infrastructure cannot satisfactorily limit risk exposure to members of the public.	As part of the completion of infrastructure works for each stage of development.
	6.2 Flood protection is provided in the design of development.	<p>6.2.1 Development shall be in accordance with Council's DCP Section A3- Development of Flood Liable Land.</p> <p>6.2.2 The proponent will provide a Design Flood Level Map with each development and project application for land subject to flooding in the design flood event (being the 100 year ARI flood event, taking into account climate change impacts 0.9m sea level rise plus 10% increased rainfall intensity). The map will show peak flood levels for local and regional flood events at 0.1m contours. The map will be used as the basis for determining fill and floor levels for adjoining precincts.</p> <p>6.2.3 The proponent will provide detailed flood impact assessments for development and project applications on flood liable land. The flood impact assessment will include updates to the Design Flood Level Map.</p>	As part of development and project applications, where relevant.
7. Groundwater Management	7.1 Groundwater is appropriately managed.	<p>7.1.1 The provisions of the Groundwater Management Plan (Gilbert & Sutherland, April 2008) will be implemented.</p> <p>7.1.2 Groundwater Management Plans will be provided in relation to each future Development Application or Project Application where the use of groundwater is proposed or where it is proposed to intercept the ground water table.</p>	Submission of Management Plans prior to approval of earthworks Construction Certificate applications.
8. Management of soils and	8.1 Geotechnical conditions are appropriately managed.	8.1.1 The Broadscale Geotechnical Investigation - Cobaki Lakes (Cardno Bowler, February 2010) will be implemented to support earthworks, civil construction	As part of project applications and development Construction Certificate applications for earthworks, civil and building

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Project Component	Environmental Outcome	Commitment	Timing for Completion
geotechnical conditions		and building work. 8.1.2 A preliminary geotechnical assessment is to be provided at the development application stage for each future application to create residential allotments. 8.1.3 A detailed geotechnical assessment is to be provided at the Construction Certificate Stage for proposals to create residential allotments.	works. As part of Development Applications for to create residential allotments. As part of Construction Certificate Applications to create residential allotments.
	8.2 Acid sulphate soils (ASS) are appropriately managed.	8.2.1 Detailed ASS investigations and ASS Management Plans will be prepared for the detailed design and construction of areas of potential acid sulphate soils, and implemented.	Submission of investigation reports and Management Plans prior to approval of Construction Certificate applications.
	8.3 Contaminated sites are appropriately managed.	8.3.1 Detailed contamination assessments of potentially contaminated land will be undertaken, and, if required, Remediation Action Plans implemented. 8.3.2 Site audit statements will be obtained where necessary to verify the remediation of any contaminated land in accordance with relevant NSW guidelines.	As part of project applications and development applications for each relevant stage of development.
9. Bushfire Protection	9.1 Bushfire protection measures are included in development.	9.1.1 Development will comply with the guidelines Planning for Bushfire Protection 2006. 9.1.2 Bushfire management plans will be prepared and submitted with all relevant development applications.	As part of project applications and development applications for each relevant stage of development.
10. Interface with surrounding land	10.1 Agricultural buffers, ecological buffers, and appropriate measures for management of generic impacts on and from adjacent land are included in development.	10.1.1 The recommendations of the Agricultural Buffer and Off-Site Impacts Assessment (Gilbert & Sutherland, May 2008) will be implemented.	As part of each stage of development, where relevant.
11. Aboriginal Cultural Heritage	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	All stages of work.

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Project Component	Environmental Outcome	Commitment	Timing for Completion
Conservation		implemented in relevant areas.	
12. Road noise	12.1 Dwellings meet residential noise standards.	12.1.1 Future project applications and development applications for subdivision or housing adjacent to subarterial, distributor and connector roads are to include an acoustic report that addresses the potential impacts of road noise, and includes measures to mitigate noise and achieve relevant NSW standards for residential noise levels in dwellings.	As part of each stage of development, where relevant.
13. Ownership and management of open space and environmental protection zones	13.1 The long term ownership and management of open space and Environmental Protection areas is secured.	13.1.1 The main central open space corridor on the western side of Cobaki Parkway, being the subject of Project Application No 08-0200, is to be constructed and landscaped in stages. The proponent will offer to dedicate this land to Council in stages, such dedication to occur upon the works being completed.	In accordance with the proponent's development program and relevant Management Plans.
		13.1.2 The environmental protection zone on the eastern side of Cobaki Parkway adjacent to Cobaki Creek is to be rehabilitated, and biting midge and mosquito controlled, in accordance with the relevant Management Plans. The proponent will offer to dedicate this land to Council, such dedication to occur upon the works being completed.	
		13.1.3 The remaining environmental protection-zoned areas adjacent to each development precinct will be rehabilitated and/or landscaped as part of the development of the adjacent development precinct, in accordance with the relevant Management Plans. The proponent will offer to dedicate these areas to Council, such dedications to occur upon the works in respect of each area being completed.	In accordance with the proponent's development program and relevant Management Plans.

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Project Component	Environmental Outcome	Commitment	Timing for Completion
		13.1.4 The proponent will offer to execute the relevant covenants in favour of Council in respect of areas identified to be so protected.	In accordance with the proponent's development program and relevant Management Plans.
		13.1.5 The proponent will provide easements or other lawful mechanisms acceptable to Council that are reasonably necessary to enable Council to undertake regular environmental management and/or the maintenance of infrastructure within reserves (including drainage, open space, sewer, water and roads), particularly within areas zoned Environmental Protection.	Prior to the commencement of works in the central open space. In accordance with Council's requirements.
14. Tweed Shire Council DCP	14.1 Development at the Cobaki Estate is generally consistent with the Tweed Shire Council DCP and Development Design and Construction Specifications to the extent that the provisions thereof are not inconsistent with the Cobaki Concept Plan and Development Code which take precedence.	14.1.1 Future project applications and development applications are to be generally consistent with the Tweed Shire Council DCP and Development Design and Construction Specifications to the extent that the provisions thereof are not inconsistent with the Cobaki Concept Plan and the Cobaki Development Code.	At each stage of development.

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