



Our Ref: J02888  
Your Ref: MP06\_0316 MP08-0200

Date: 31 January 2017

The Director General  
The Department of Planning  
GPO Box 39  
**SYDNEY** NSW 2001  
Via email: [Natasha.Harras@planning.nsw.gov.au](mailto:Natasha.Harras@planning.nsw.gov.au)

Att: Natasha Harris

**RE: Cobaki Lakes - Amendments to MP06\_0316 and MP08\_0200**

Dear Natasha,

This letter is in response to your request via phone call today for a formal cover letter to our email of 10 January 2017.

As discussed at our meeting December 2016 we would like to tie in some additional changes to the Development Code relating to Cobaki. These changes are relative to the requirements of the future servicing of the Cobaki Development pursuant to the *Water Industry Competition Act 2006*. These changes are also reflective of the current commitment to a WICA solution as advised to Tweed Shire Council and are also consistent with the current application to IPART for a Network Operators Licence for the Cobaki Development.

You will note that we refer to exemptions available under the WICA Act within our suggested amendments. By way of background it is important to note that the pursuant to the provisions of the *Water Industry Competition Act, 2006*, the proponents of the Cobaki Estate are able to rely on the exemptions in clause 1 of Schedule 3, and also the exemptions available under clause 19A of the *Water Industry Competition (General) Regulation 2008 (2008 Regulations)* as they existed before the commencement of the *Water Industry Competition (General) Amendment (Licensing Exemptions) Regulations 2010 (2010 Amendment Regulations)*.

In this regard, section 5(4)(b) of WICA exempts the requirement for a licence if the water industry infrastructure is prescribed by the WIC Regulations.

Clause 19A of the 2010 Amendment Regulations provides that:

*For the purposes of section 5(4)(b) of the WICA, the water industry infrastructure prescribed under clause 19 immediately before the commencement of the Water Industry Competition (General) Amendment (Licensing Exemptions) Regulations 2010 is prescribed as water industry infrastructure to which section 5 of the Act does not apply.*

Clause 19A also clarifies that these exemptions extend to water industry infrastructure regardless of whether it was constructed or installed before or after the commencement of the 2010 Amendment Regulations.

Clause 19 of the 2008 Regulations, prior to the commencement of the 2010 Amendment Regulations, provided as follows:

*The following water or sewerage infrastructure is prescribed as infrastructure to which section 5 of the Act does not apply (and so is exempt from the requirement for a licence):*

...

(d) *water or sewerage infrastructure:*

- (i) *that is wholly situated on premises owned by the one person, whether or not the whole or any part of those premises are leased to, or occupied by, some other person, and*
- (ii) *that is owned or controlled by the person by whom those premises are owned.*

Having regard to paragraph (d) above and the nature of the Piping Works, in our view the criteria to enliven the exemption exists. Specifically:

Criteria required	Has this Criteria been met?
Is it water or sewerage infrastructure (as that term is defined in the WICA)?	Yes, the Piping Work is water or sewerage infrastructure.
Is it wholly situated on the premises?	Yes, it will be constructed within Precincts 6, 7 and 8 which are wholly within the Cobaki site.
Is the premises owned by the one person?	Yes, the Cobaki site is owned and controlled solely by LEDA Manorstead Pty Ltd
Is the water or sewerage infrastructure owned or controlled by the person who owns the premises	Yes, LEDA Manorstead Pty Ltd will own and control the Piping Work.

Accordingly, by virtue of section 5(4)(b) and the exemptions offered by Clause 19A of the 2008 Regulations, there is **no requirement** for NWS to hold a WICA licence in respect to the Piping Works to be undertaken.

For the above reasons we have included relevant references in the DRAFT Code amendment attached.

Please note that we have only provided a copy of the relevant changes to the code at 5.9 and 5.10. We can of course add this to a complete version of the amended Code, however in the first instance we thought it best to explore the Department's thoughts on these specific clause inserts in the first instance.

Yours sincerely



Simon Halcrow  
**Senior Town Planner**  
**Planit Consulting P/L**

Enc – Attachment 1

## 5.9 Location and Easements for Services

### Objectives

- (1) To ensure appropriate easements are provided for adequate servicing of land where services cannot be located on public land.

### Controls

- (1) Where possible, all services must be located in footpaths in accordance with **Figure 5.9.1** or where applicable, **Figure 5.9.2**.
- (2) Where services are located within a residential lot an easement is to be provided over that infrastructure that has at least one connection to a public road or reserve.

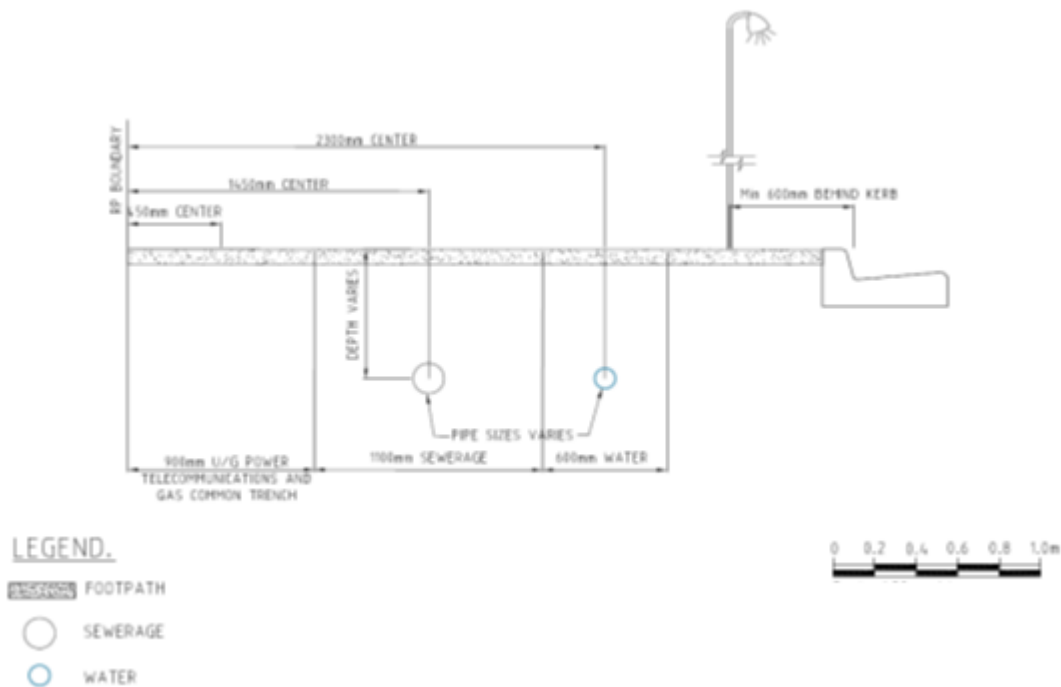
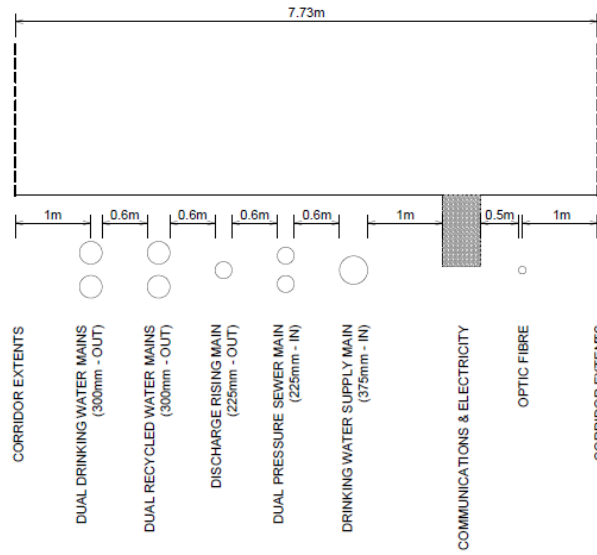


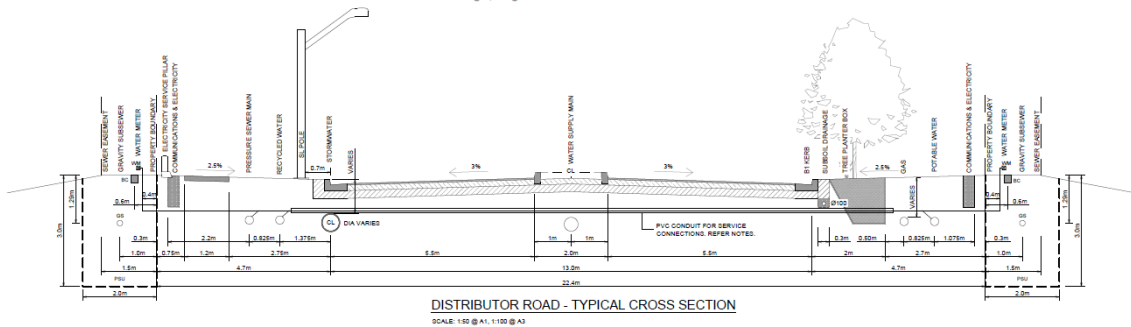
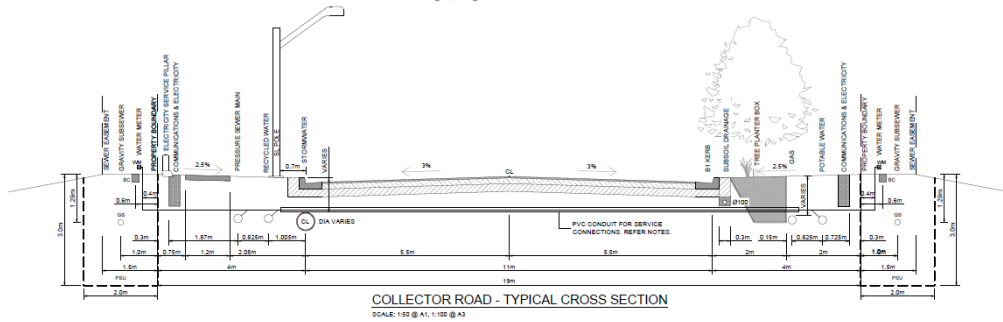
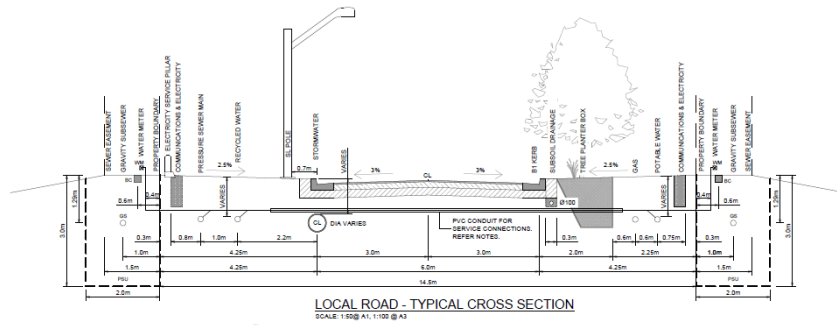
Figure 5.9.1: Typical services section if adopting a solution if connecting to Tweed Shire Council



## SERVICE CORRIDOR FOR WWTP - SECTION 1-1

SCALE: 1:50 @ A1, 1:100 @ A3

- 1 CYCLED METER
- 2 NDARY KIT
- 3 EASEMENT
- 4 3mm DEEP
- 5 WATER SERVICE
- 6 2mm PVC CONDUIT WITH
- 7 VER UNDER ROADWAYS.



**Figure 5.9.2: Typical services section if adopting a solution under the Water Industry Competition Act 2006**

## **5.10 Private Services Infrastructure**

### **Objectives**

- (1) To facilitate alternate services provision in accord with the Water Industry Competition Act 2006 and to ensure that the approvals process is structured so as to achieve the intent of that legislation.
- (2) To minimise infrastructure works and potential environmental impacts associated with High Water Table, Acid Sulfate Soils and discharges to the natural environment.
- (3) To facilitate alternate means of sewer and water infrastructure provision.

### **Controls**

- (1) In the event that the proponent seeks to pursue Water and or Sewerage connections in accord with the Water Industry Competition Act, 2006, then a licence must be sought and issued by IPART for such works, with the exception of those works that are exempted from approval under the Water Industry Competition Act 2006.
- (2) Both conventional sewerage (connection to Tweed Shire Council) and or an alternate Pressure Sewer System pursued under the Water Industry Competition Act 2006, must be designed in a manner consistent with the provisions of Tweed Shire Council Development Design Specification D12.
- (3) Before undertaking any plumbing and drainage works, the proponent must seek appropriate approvals under Section 68 of the Local Government before any Plumbing & Drainage works can commence. These works must be consistent with the conventional sewerage or pressure sewer system requirements of Control No.2 above.
- (4) Should the proponent seek to carry out works in respect of the exemption listed in 1 above and any subsequent Section 68 approval, then in the event that the proponent does not receive a WICA licence and the infrastructure has been constructed on land to be dedicated to Council in the future, then such infrastructure must be removed entirely from the site before Council will accept dedication of the land. Such removal must be done at the cost of the proponent
- (5) Where a dual reticulation water supply for recycled water is provided throughout the development, this must be designed and constructed generally in accordance with WSA Dual Water Supply Systems and Tweed Shire Council Water Supply Specifications. The layout is to be generally in accordance with figure 5.9.2
- (6) The developer must incorporate on the title for all allotments created, relevant Restrictions as to the User which enforce the need for all dwellings and buildings with plumbing (including commercial buildings and the like) to make provision for recycled water service facilities to the approval of the relevant water and sewerage authority