

8 June 2017

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Attention: Natasha Harras

Dear Sir/Madam

Additional TSC comments on the proposed amendments to the modification of the Cobaki Concept Approval (MP06_0316 Mod 5) and the proposed modification of the Project Approval (MP08_0200 Mod 4) with regard to alternate water and sewer supply.

I refer to your email of 17 May 2017 requesting Council's comments on the proponent's latest version of the Cobaki Development Code, in response to Council's previous submissions, in relation to the proposed Mods to the Concept Plan and Project Approval.

In response to the proposed draft conditions and the revised Development Code, Council provides the following comment.

1. Concept Approval 06 0316 MOD 5

a. Condition A1 – *Project Description*

It is proposed to amend Condition A1 to include additional wording at the end of the final bullet point as follows (changes shown in italics):

- Utility service infrastructure *and / or private infrastructure otherwise authorised under the Water Industry Competition Act 2006.*

No objections are raised to the proposed additional wording.

b. Condition A3 – *Project in Accordance with Documents*

It is proposed to amend Condition A3 such that reference to the Development Code has been removed from Item 3(e) and a new Item 5 of Condition A3 has been included in reference to Mod 5, as follows:

5) *Modification Request (MOD 5)*

- Modification Report prepared by Planit Consulting, dated 28 July 2016, as amended by responses and additional information dated 7 November 2016, 10 January 2017, 31 January 2017, 10 March 2017, and 21 April 2011;*
- Revision to Statement of Commitments to reflect the provision of Water and Sewerage Services by the relevant sewer and water authority*

c. *Revised Cobaki Estate Development Code Revision xxx dated xxx*

There is a minor edit required with regard to the correct date of Planit Consulting documentation being referenced in Item 5a, being "...21 April 2017".

Overall, no major objections are raised to the proposed amendments to Condition A3, subject to the Development Code being finalised and appropriately referenced in 5c.

c. **Condition C2 – Implementation of the Cobaki Development Code**

It is proposed to amend Condition C2 to include additional wording at the end of the condition as follows (changes shown in bold):

*All future project / development applications for residential subdivision or for the construction of dwellings or commercial premises must demonstrate consistency with Part B of the Cobaki Development Code **as amended**.*

No objections are raised to the proposed additional wording.

d. **Schedule 3 – Statement of Commitments**

It is proposed to include an additional *Commitment 15 – Water and Sewer Infrastructure* at the end of the existing Statement of Commitments, as follows:

15. *Water and Sewer Infrastructure*

Environmental Outcome: All water and sewer infrastructure is to be constructed in accordance with relevant approvals and to the necessary standard.

Commitment: That where the proponent does not seek to utilise Tweed Shire Council for the provision of water and Sewer Infrastructure, that such infrastructure will be provided in accord with the private approval requirements outlined under the Water industry Competition Act, 2006 and associated regulations

Timing for Completion: at each relevant stage of development.

No objection is raised to the proposed additional Commitment 15.

2. **Project Approval 06 0316 MOD 4**

a. **Condition 4 – Project in Accordance with Documents**

It is proposed to amend Condition 4 to include additional point (q) to make reference to the modification report / letter associated with Mod 4, as follows:

- q. *Modification Report prepared by Planit Consulting dated 28 July 2016, as amended by responses and additional information dated 7 November 2016, 10 January 2017, 31 January 2017, 10 March 2017, and 21 April 2011.*

No objection is raised to the proposed additions to Condition 4, subject to the correct date of Planit Consulting documentation being referenced, that being "...21 April 2017".

b. Condition 5 – Inconsistency between Documents

It is proposed to amend Condition 5b to remove a double up of wording, as follows:

- b. Any document listed in Conditions 3 and 4 above ~~and any other document listed in Conditions 3 and 4 above~~, the most recent document shall prevail to the extent of the inconsistency; and*

No objection is raised to the proposed amendment to Condition 5.

c. Condition 7 – Subdivision Manual

It is proposed to amend Condition 7 to incorporate a new Item 7c, as follows:

- c. Notwithstanding condition 7a above, where there is an inconsistency between this consent and any water and sewer infrastructure sought under the Water Industry Competition Act 2006, then the provision of the water Industry competition Act 2006 and any approval granted under this legislation, will prevail, to the extent of the inconsistency.*

No objection is raised to the proposed amendment to Condition 7, subject to some minor edits in terms of “....provision of the Water Industry Competition Act 2006”.

d. Condition 8 – Certification

It is proposed to amend Conditions 8a and 8b as follows (changes shown in bold):

- a. Construction Certificate: Prior to the commencement of works, the proponent must obtain the appropriate Construction Certificate(s) for the proposed works from either the Council or an accredited certifier, **plus Section 68 approval under the Local Government Act for any water and sewer not constructed under a WIC Act Licence.***
- b. Subdivision Certificate: Prior to registration of the plan of subdivision of the project, under Division 3 of Part 23 of the Conveyancing Act 1919, a Subdivision Certificate pursuant to Section 109C(1)(d) of the Act must be obtained **in accordance with Section 109D(1)(d) of the Act, plus a Certificate of Compliance under Section 307 of the Water Management Act 2000 for any water and sewer not constructed under a WIC Act licence that services the subdivision. Works carried out under a WIC Act Licence must be appropriately certified by the licenced network operator.***

No objection is raised to the proposed amendments to Condition 8.

e. Condition 11 – Registration of Easements / Restrictions to use / Right of carriageway

It is proposed to amend Condition 11e as follows:

- e. *The restriction is to be clearly marked on the plan of subdivision and ~~Council~~ **relevant authority** is to be nominated as the sole party to vary, modify and/or extinguish the restriction.*

No objection is raised to the proposed amendment to Condition 11.

f. Condition 13 – Bond for Works

It is proposed to amend Condition 13 as follows:

*Prior to the issue of a Construction Certificate for Civil Works **or issue of a Section 68 for water and sewer under the Local Government Act (as applicable)**, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the Civil works as set out in Council's fees and charges at the time of payment. The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this approval, which are not being addressed to the satisfaction of Council.*

The bond will be refunded, if not expended, when the associated Subdivision Certificate is issued.

No objection is raised to the proposed amendment to Condition 13.

g. Condition 17 – Water and Sewer Infrastructure

It is proposed to amend Condition 17a and 17e as follows (changes shown in bold):

- a. *Design and construction of the water main and sewer rising mains proposed along Cobaki Parkway to Cobaki Creek Bridge **if not constructed under a WIC Act Licence**, must be subject to separate construction certificate approval **and/or Section 68 approval under the Local Government Act for water and sewer** by Council and shall be generally in accordance with the following plan prepared by Yeats Consulting Engineers:*

YC0229-1P1-TP01	B	Temporary Water and Sewer Rising Main Plan	17 September 2010
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- e. ***The above condition (a) is only applicable where particular mains are to become Council assets. If the pipelines are to be constructed and operated under the provisions of a WIC Act licence, they may be constructed and operated under the provisions of the Infrastructure SEPP and the licenced approved scheme.***

No objection is raised to the proposed amendment to Condition 17.

h. Condition 58 – Works as Executed

It is proposed to amend Condition 58d as follows (changes shown in bold):

- d. ***The plans are to be endorsed by a Registered Surveyor or a Consulting Engineer Certifying that:***

- I. *all relevant drainage systems, **water and** sewer lines, services and structures (as appropriate) are wholly contained within an appropriate easement created by the subdivision;*
- II. *the plans accurately reflect the Works as Executed.*

No objection is raised to the proposed amendment to Condition 58.

i. Schedule 3 – Statement of Commitments

It is proposed to include an additional *Commitment 13 – Water and Sewer Infrastructure* at the end of the existing Statement of Commitments, as follows:

13. Water and Sewer Infrastructure

Environmental Outcome: All water and sewer infrastructure is to be constructed in accordance with relevant approvals and to the necessary standard.

Commitment: That where the proponent does not seek to utilise Tweed Shire Council for the provision of water and Sewer Infrastructure, that such infrastructure will be provided in accord with the private approval requirements outlined under the Water industry Competition Act, 2006 and associated regulations

Timing for Completion: at each relevant stage of development.

No objection is raised to the proposed additional Commitment 13.

j. Draft Document Footer Note

It is noted that the footer note makes reference to Mod 3, as opposed to Mod 4.

3. Cobaki Development Code

a. Revised Date of Code

The Development Code (relevant to this amendment) notes the date of the document as “...November 2016”. It is considered appropriate that the date be revised to reflect the current date e.g. June 2017.

b. 1.2 The Cobaki Estate Concept Plan

It is noted that the Code makes reference to the “...expansion of the Cobaki Town Centre (Precinct 5) to accommodate the inclusion of a campus for Southern Cross University”, which is no longer proceeding.

c. 1.5 Structure of the Code

For completeness, it is considered appropriate to include Appendix B and C in the Structure of the Code.

d. 1.7 Statutory Context of the Code

It is considered appropriate to amend section 1.7 of the Code to make reference to the possible use of the WIC Act.

e. 2.1 Exempt Development

It is proposed to amend Controls (b) and (h) within the Exempt provisions of the Code to make reference to the “relevant” sewer and water authority, as follows:

- (b) be more than 1 metre from any easement or public sewer main, stormwater main, water main or related fixture and comply with the requirements of the relevant sewer and water authority, and*
- (h) If work involves any plumbing or drainage works, approval for such work under the Local Government Act must be obtained from the relevant water and sewer authority.*

No objection is raised to the proposed amendment to either control. However, as noted previously (13 September 2016) with regard to Control (h), it is considered that a licenced utility is not able to give any approvals under the *Local Government Act*.

f. Subdivision 32 Rainwater Tanks (above ground)

It is proposed to amend Development Standard 2.1.64(3) of the Exempt provisions of the Code as follows:

- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water supply without the prior approval of the relevant water authority.*

No objection is raised to the proposed amendment to the Code. However, if the proposed amendment is to provide a water authority (licenced under the WIC Act) the ability to oppose the installation of water tanks, so as to maximise recycled water use, it is recommended that small rainwater tanks not connected to water or recycled water be permitted as exempt development or prohibited altogether.

g. Subdivision 33 Rainwater Tanks (below ground)

It is proposed to amend Development Standard 2.1.66(3) of the Exempt provisions of the Code as follows:

- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water without the prior approval of the relevant water authority.*

No objection is raised to the proposed amendment to the Code. However, similar to the point made above in Item 3f, it is recommended that small rainwater tanks not connected to water or recycled water be permitted as exempt development or prohibited altogether.

In addition, and as noted in Council's letter of 13 September 2016, and to be consistent with Item 3f above, a minor amendment to the wording of the development standard is recommended (changes shown in bold):

- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water **supply** without the prior approval of the relevant water authority.*

h. Subdivision 40 Temporary Builders' Structures

It is proposed to amend Development Standard 2.1.80(e) of the Exempt provisions of the Code as follows:

- (e) *Not be connected to a reticulated water or sewer without the prior approval of the relevant water and sewerage authority.*

No objection is raised to the proposed amendment to the Code. However, as noted in Council's letter of 13 September 2016, and for consistency purposes, minor amendments to the wording of the development standard are recommended (changes shown as struck out or bold):

- (e) *Not be connected to a reticulated water **supply** or sewer without the prior approval of the relevant water and sewerage authority.*

i. 2.2 Complying Development

It is noted that Control (5) states that "...*Rainwater harvesting is to be provided in accordance with Appendix C*". If Water and Sewer is carried out by a WIC Act licensed utility and the development provides recycled water, it would be undesirable for the development to have extensive rainwater harvesting which would reduce the use of recycled water. This being the case, the following amendment to Control (5) is recommended (changes shown in bold):

- (5) *Rainwater harvesting is to be provided in accordance with Appendix C, **unless the subject land has a reticulated recycled water supply.***

j. Subdivision 1 Site Requirements

It is proposed to amend Control 1(b) of Section 2.2.1 Lot Requirements of the Complying provisions of the Code as follows:

- (b) *Has a direct connection to reticulated water supply and sewer.*

No objection is raised to the proposed amendment to the Code. However, as noted in Council's letter of 13 September 2016, a minor amendment to the wording of the development standard is recommended (changes shown in bold):

- (b) *Has a direct connection to **the authorised** reticulated water supply and sewer.*

k. Schedule 3 – Division 1 Conditions Applying to Residential CDC's

It is proposed to amend Condition 2(a) of Section 2 Toilet Facilities as follows:

- (a) *be a standard flushing toilet connected to an authorised public sewer, or*

No objection is raised to the proposed amendment to the Code.

l. Schedule 3 – Division 3 Conditions Applying to Commercial / Industrial CDC's

It is proposed to amend Condition 2(a) of Section 2 Toilet Facilities as follows:

- (a) *be a standard flushing toilet connected to an authorised public sewer, or*

No objection is raised to the proposed amendment to the Code.

m. 3.1.8 Flooding and Water Cycle Management

It is noted that Control (4) states that “...*Rainwater harvesting is to be provided in accordance with Appendix C as per the minimum lot sizes specified in this Code*”. Similar to the comments in Item 3i above, if Water and Sewer is carried out by a WIC Act licensed utility and the development provides recycled water, it would be undesirable for the development to have extensive rainwater harvesting which would reduce the use of recycled water. This being the case, the following amendment to Control (4) is recommended (changes shown in bold):

- (4) *Rainwater harvesting is to be provided in accordance with Appendix C as per the minimum lot sizes specified in this Code, **unless the subject land has a reticulated recycled water supply.***

n. 5.2 Relationship to Tweed Shire Council Development Control Plan 2008 Section A5 – Subdivision Manual

It is proposed to include new Objective (2) as follows:

- (2) *Where water and sewer provision is provided under a WIC Act License, that Authority is not bound by any council standard in relation to the provision.*

Whilst there are no objections to the new objective, it is considered that it is at odds with 5.10 Control (2). Refer to comments in Item 3q below.

o. 5.9 Location and Easements for Services

The proponent initially proposed new typical road sections under Section 5.9.2 of the Code to provide for a three pipe system. Council raised numerous concerns with the proposed new sections, and the proponent subsequently removed Section 5.9.2 from the Code.

As previously stated, concerns raised by Council in terms of the required road pavement and verge widths to accommodate all of the proposed services remain in place, despite the removal of the Section 5.9.2 road sections by the proponent.

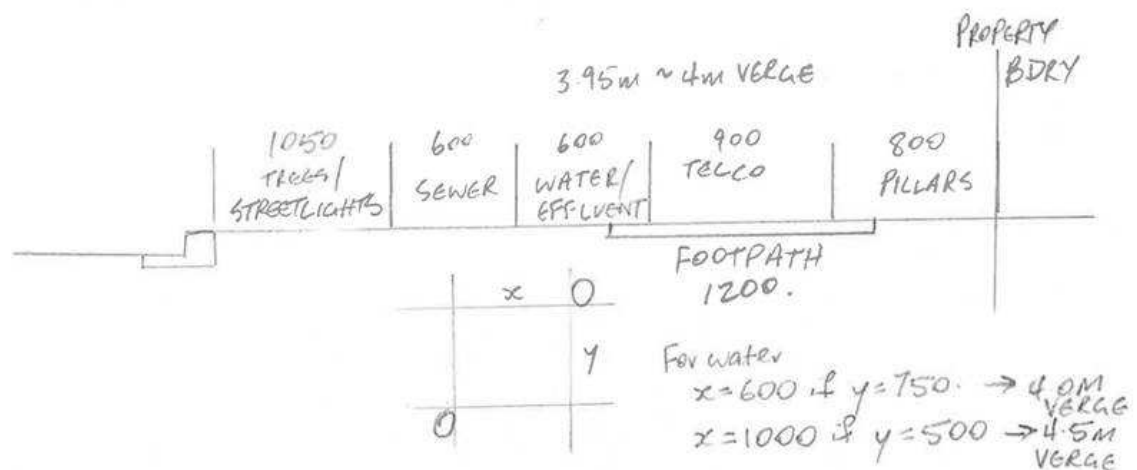
Any revision to the Cobaki Development Code incorporating a third pipe (recycled effluent) within the road verge will require widening of the verge beyond Council’s minimum 3.5m. This would require adjustment of existing approvals for subdivision which have been submitted based on conventional (two pipe) water and waste water servicing by Council. **Flow on effects on lot configuration and yield will result and further modifications to the road widths as approved under the Concept Plan will likely be required.**

It is considered that the minimum width for road verges depend on how well coordinated the other services are to minimise conflicts.

It would seem that under the three pipe proposal, there would be sewer on both sides of the road, water on one, and effluent on one. Wherever possible,

effluent and water supply should be on opposite sides of the road to avoid potential cross connections / contamination, which also helps to minimise verge width.

There is no provision under WSA Codes or Council standards to share water / sewer / effluent trenches. The sketch below is based on the assumption that there are only two of the three pipes within the verge, that the water is 200mm dia or less and the sewer is 300mm or less. Larger services require greater separation distances under WSA Code. Where water and sewer is on the same side, the trench spacing shown requires at least a 750mm vertical clearance between these services. This would only be 300mm if we are dealing with effluent and sewer adjacent.



The above sketch indicates that a 4m wide verge could generally accommodate the proposed system with a 750mm vertical clearance. The required verge width would need to increase to 4.5m if the 750mm vertical clearance between water and sewer cannot be achieved, or if the third pipe is inserted on the same side.

As previously noted, Council will not support a reduction of any minimum road pavement widths to accommodate any increase in road verges widths.

p. 5.10 Private Services Infrastructure - Control 1

Proposed Control (1) states the following:

- (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.*

It should be noted that IPART handles and assesses the licence applications under the WIC Act 2006 and recommends to the Minister approval to grant such licenses. The actual licence is issued by the Minister.

Although the reference to the "...exception of those works that are exempted from approval under the WIC Act 2006" is confusing, it is acknowledged that the proponent concurs with Council in that any such exemptions will be limited to LEDA as the landowner.

No objection is raised to proposed Control 1.

q. 5.10 Private Services Infrastructure - Control 2

Proposed Control (2) states the following:

- (2) *Both conventional gravity sewerage (connection to Tweed Shire Council) and or an alternate Pressure Sewer System pursued under the Water Industry Competition Act 2006, should be generally in accordanc with the provisions of Tweed Shire Council Development Design Specification D12.*

There is a minor typo with the wording "...generally in accordance with".

Concern is raised with regard to the reference to "...*connection to Tweed Shire Council*" in a section of the Code that relates to the option of Private Services Infrastructure. Although Council does not disagree with the use of Tweed Shire Council's Specifications to guide the design of infrastructure, the inconsistency with 5.2 Objective (2), as noted in Item 3n above, is raised for further consideration by the Department.

r. 5.10 Private Services Infrastructure - Control 3

Proposed Control (3) states the following:

- (3) *Before undertaking any works requiring approval under Section 68 of the Local Government Ad, the proponent must ensure that these works are consistent with the conventional sewerage or pressure sewer system requirements of Control No.2 above.*

There is a minor edit required with the wording "...*Local Government Act*".

No objection is raised to proposed Control 3. As noted in previous correspondence, any s68 application will need to comply with Council requirements and be of a standard acceptable to Council (i.e. gravity sewer).

s. 5.10 Private Services Infrastructure - Control 4

Proposed Control (4) states the following:

- (4) *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.*

No objection is raised to proposed Control 4.

t. 5.10 Private Services Infrastructure - Control 5

Proposed Control (5) states the following:

- (5) *Where the development is serviced by a Private Water Utility, then 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 licenced Network Operator.*

No objection is raised to proposed Control 5.

For further information regarding this matter please contact Colleen Forbes on (02) 6670 2596.

Yours faithfully

Lindsay McGavin

Manager Development Assessment and Compliance