

# Modification (7) of Concept Approval No. MP06\_0316

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Prepared by

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Prepared for

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Review and Amendments Schedule – PLANIT CONSULTING PTY LTD

Date		
Author	LN	December 2016
Reviewers	LN/BS	December 2016

Amendments
Rev A – Original
Rev B – Response to Information Request
Rev C – Response to Information Request
Rev D – Response to Information Request – 28/07/2017

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Planit Consulting declares that it does not have, nor expect to have, a beneficial interest in the subject project.

*PLANIT CONSULTING PTY LTD  
December 2016*

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## Executive Summary

This Environmental Assessment supports an application for a modification (MOD 7) to the Cobaki Estate concept approval MP06\_0316. The proposed modification relates to amendments to the formatting of and the residential development provision of the Cobaki Development Code. For consistency purposes and to ensure determination can be made independent of other live modifications to MP06\_0316, this modification also includes the amended Concept Plan and Development Matrix lodged with MOD 4 to MP06\_0316.

Amendments to the Cobaki Development Code consistent of the following:

- General Formatting Changes;
- Update of terminology and use definitions within the Cobaki Development Code to match the standard instrument;
- Minor Amendments to the Exempt Development Provisions within Section 2.0;
- Update of residential development controls (i.e. setback, site cover, etc) within Section 3.0 of the development code;
- Update of subdivision development controls (i.e. frontages widths, etc) within Section 5.0 of the development code; and
- Inclusion of MOD 4 Concept Plan and Development Matrix.

This modification request is considered largely administrative in nature and as such the issuing of formal SEAR's is not considered necessary in this instance.

## 1.0 Introduction

### 1.1 Brief

Planit Consulting has been commissioned by Leda Manorstead Pty Ltd (the registered land owner) to prepare and submit an application for Modification of Concept Approval MP06\_0316. This modification is identified as MOD 7. This modification relates to the following specific issues:

- General Formatting Changes;
- Update of terminology and use definitions within the Cobaki Development Code to match the standard instrument;
- Minor Amendments to the Exempt Development Provisions within Section 2.0;
- Update of residential development controls (i.e. setback, site cover, etc) within Section 3.0 of the development code;
- Update of subdivision development controls (i.e. frontages widths, etc) within Section 5.0 of the development code; and
- Inclusion of MOD 4 Concept Plan and Development Matrix.

The MOD 4 Concept Plan and Development Matrix have been included to enable this modification to be lodged and assessed while the determination of MOD 4 is finalised, should issue arise with the determination of MOD 4 inclusion of this amended Concept Plan and Development Matrix within this application will enable determination independent of MOD 4.

This modification requires an amendment to Condition A2 and A3 of MP06\_0316 to update the plans and documents referenced within these conditions to the plans and documents appended to this application.

### 1.2 General Summary of MP06\_0316

The Minister for Planning has granted Concept Plan Approval MP06\_0316 in relation to the Cobaki Lakes development. The Concept Plan for the Cobaki Lakes estate comprises approximately 5500 dwellings. The approval includes an order in accordance with Section 75(P) of the Environmental Planning and Assessment Act 1979, requiring that approval to carry out the project other than the central open space and Precinct 5 is subject to Part 4 or Part 5 of the EP&A Act 1979, as relevant.

### 1.3 Secretary's Environmental Assessment Requirements

This modification request is considered largely administrative in nature and as such the issuing of formal SEAR's is not considered necessary in this instance.

## 2.0 The Subject Site & Zoning

### 2.1 The Subject Site

The subject site consists of land described as Lot 1 DP 570076, Lot 2 DP 566529, Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 823679, Lots 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228 & 305 DP 755740, Cobaki Lakes, off Piggabeen Road, Tweed Heads. The site covers an area of approximately 605 hectares and is shown in **Figure 1**.



Figure 1 – Aerial Image: Source: Cobaki Development Code

### 2.2 Land use Zones

The subject land contains a number of zonings under two (2) Environmental Planning Instruments. These instruments are the Tweed Local Environmental Plan 2000 and the Tweed Local Environmental Plan 2014. The zoning of the subject land follows the approved Cobaki Estate Concept Approval. Zoning on the subject land includes R1 General Residential, RE2 Private Recreation and B2 Local Centre under the TLEP 2014; and 7(a) Environmental Protection (Wetlands and Littoral Rainforest), 7(l)

Environmental Protection (Habitat) and 7(d) Environmental Protection (Scenic / Escarpment) under the TLEP 2000.

The zoning of the subject land is identified in Figure 2 – TLEP 2014 Zoning Extract and Figure 3 – TLEP 2000 Zoning Extract.

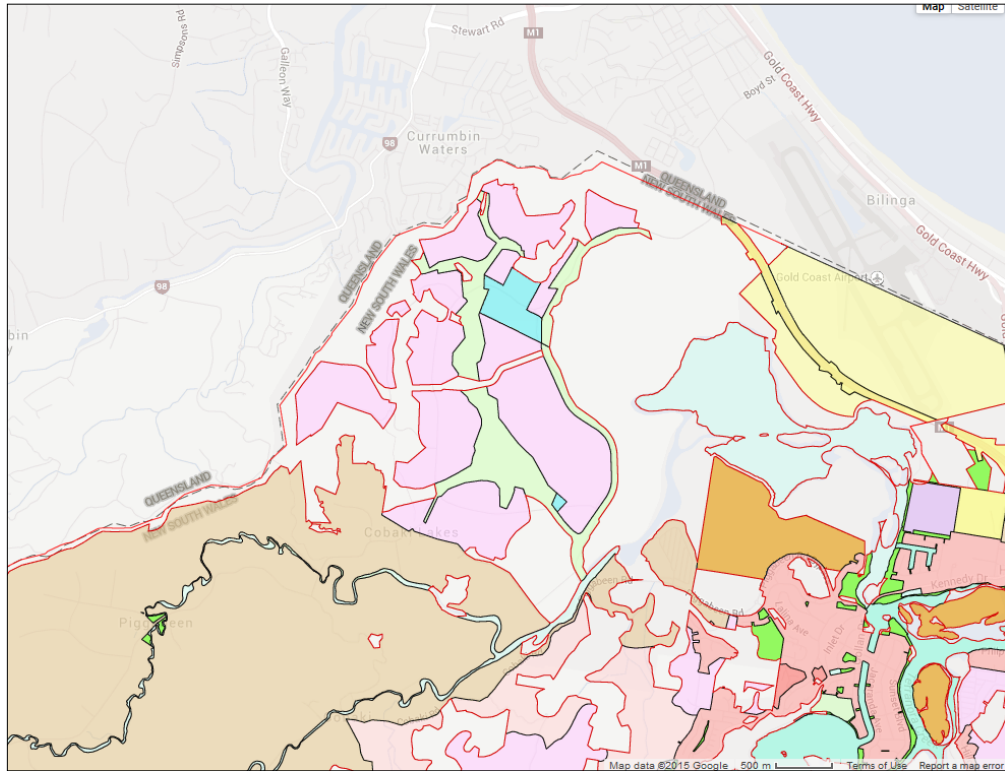


Figure 2 – TLEP 2014 Zoning Extract. Source: NSW DOP Planning Beta

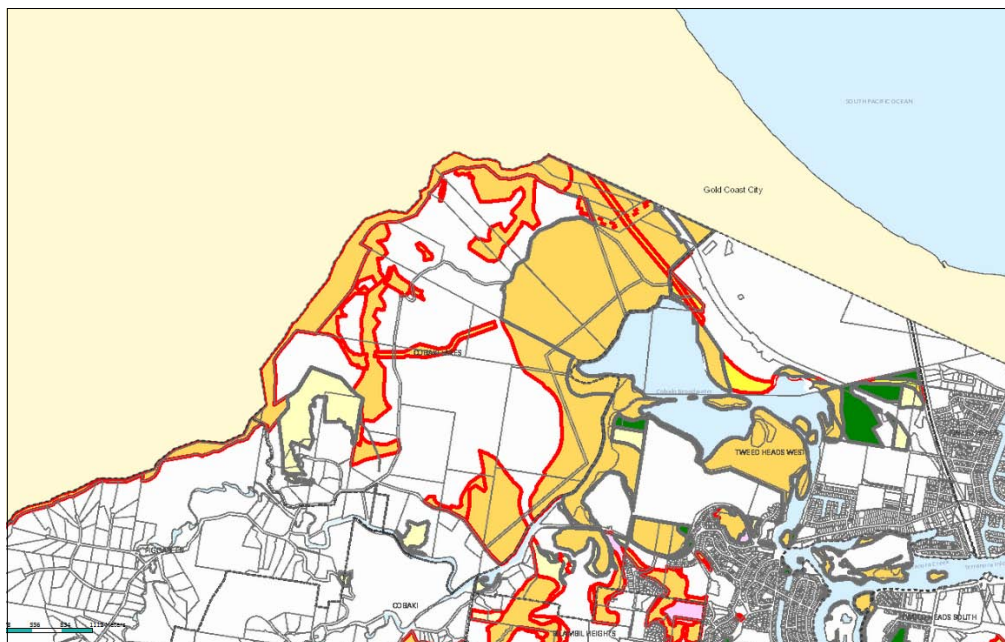


Figure 3 – TLEP 2000 Zoning Extract. Source: TSC GIS 2015.

## 3.0 Consultation

Consultation on proposed changes to the Cobaki Development Code has been ongoing for some time, however has all been informal. Given the proposal is largely an administrative modification with no impacts to the previous commitments made and conditions in relation to the Cobaki Development, no other formal consultation has been undertaken with other Government agencies.



## 4.0 Proposed Modification

### 4.1 Description, Justification and Modifications Required to MP06\_0316

This modification is identified as MOD 7 to MP06\_0316. This modification relates to the following specific items:

- General Formatting Changes;
- Update of terminology and use definitions within the Cobaki Development Code to match the standard instrument;
- Minor Amendments to the Exempt Development Provisions within Section 2.0;
- Update of residential development controls (i.e. setback, site cover, etc) within Section 3.0 of the development code;
- Update of subdivision development controls (i.e. frontages widths, etc) within Section 5.0 of the development code; and
- Inclusion of MOD 4 Concept Plan and Development Matrix.

To assist the Department track the changes proposed to the Cobaki Development Code a copy of the amended code with track changes. Within the tracked changes version of the document the black text is original text, red text with strike through is deleted text and red underlined text is new / amended text.

The modification seeks to achieve the following outcomes:

- Interpretation consistency between the Cobaki Development code, Tweed Local Environmental Plan and other planning instruments which will apply in whole or in part to the development of built form within Cobaki Lakes via adoption of standard instrument definition.
- An update of residential design controls to enable built form delivery that is consistent with market expectations, which are in keeping with the residential development controls which apply to the entirety of Tweed Shire and make the complying development provisions of the Code functional to facilitate the desired built form for the development.
- Ensure that these proposed changes can proceed without delay should issue arise with the determination of MOD 4 to Concept Plan MP06\_0316.

This modification requires an amendment to Condition A2 and A3 of MP06\_0316 to update the plans and documents referenced within these conditions to the plans and documents appended to this application these changes are discussed in Section 4.3 below.

### 4.2 MP06\_0316 MOD 4 Amendment Details

The MOD 4 Concept Plan and Development Matrix have been included to enable this modification to be lodged and assessed while the determination of MOD 4 is finalised, should issue arise with the determination of MOD 4 inclusion of this amended Concept Plan and Development Matrix within this application will enable determination independent of MOD 4

The proposed modification to the approved Concept Plan under MOD 4 involves the following elements:

**New School Site in Precinct 6** – A new school site is to be provided within Precinct 6 comprising an area of 3.22 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.

Table 1 below provides a comparison of the original Cobaki Concept plan land use areas and the proposed MOD 4 land use areas. For further reference and comparison a copy of the original Cobaki Concept Plan is provided under Attachment D and the MOD 4 Concept plan is provided under Attachment B.

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	
<b>Town Centre/ Neighbourhood Centre</b>	17.64ha	0.65ha	23.95ha	0.65ha	+6.31ha
<b>Residential</b>	290.47ha	4.05ha	286.86ha	4.05ha	-3.61ha
<b>Community Facilities/Education/ Utilities</b>	8.04ha	0.31ha	4.72ha	0.31ha	-4.82ha
<b>Public Open Space</b>	88.84ha	1.41ha	90.96ha	1.41ha	+2.12ha
<b>Environmental Protection Area</b>	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>

#### 4.3 Changes to Conditions

This modification requires an amendment to Condition A2 and A3 of MP06\_0316 to update the plans and documents referenced

Condition A2 Currently reads:

## **A2 Project in Accordance with Plans**

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

<b>Design, Landscape and Survey Drawings</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
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.

It is proposed Condition A2 is amended to:

<b>Design, Landscape and Survey Drawings</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
LED006/ SK 01.01	YY	Concept Plan-for Cobaki	18 Aug 2016
LED006/ SK01.02	EE	Development Matrix	18 Aug 2016
LED006/ SK01.03	FF	Cobaki Lakes Height Controls	23 September 2010
LED006/ SK01.05	GG	Cobaki Lakes Access Network Plan and Potential Bus Route	18 Aug 2016
LED006/ SK01.07	Q	Cobaki Lakes Open Space Network Plan	22 December 2015
LED006/ SK01.09	II	Precinct Location Plan	18 Aug 2016
LED006/ SK01.06	I	Road Hierarchy Plan	11 June 2010
6400-184C Sheets 1 & 2		Cobaki Lakes Areas To Be Protected By Covenant	13/9/2010

Condition A3 Currently reads

**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

It is proposed Condition A3 be amended to:

**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~~ **Cobaki Estate Development Code Dated January 2017**
  - 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

#### 4.4 Previous Submissions

The original Cobaki lakes Concept Plan and EAR were publicly exhibited by the NSW Department of Planning from the 7<sup>th</sup> December 2008 to the 16 February 2009. During the notification the Department received submissions from members of the public, NSW and QLD Government Agencies, Tweed Shire Council and Gold Coast City Council.

The main themes and issues of these submissions have been reviewed and the amendments proposed as part of this application are not considered to impact upon the solutions implemented to address the issues raised. The following table provides a summary of the main issues from the original submissions and provides comments in relation to the amendment proposed.

Main Issue in Submissions	Comment
Strategic Context	The proposed amendments do not alter the projects strategic context, rather seeks to amended detailed particulars
Concept Planning Framework	The proposed amendment will not alter the application of the Concept Planning Framework; The concept plan will continue to

	set the planning framework for the development over the lifespan of the Cobaki Lakes development.
Land Use Zoning Boundaries in Tweed LEP	The proposed modification will have no impact upon the TLEP 2014 or how the concept approval and development code relate.
Housing Mix, Densities and Allotment Sizes	The proposed amendments do not alter the approved yield of 5500 dwellings nor alter the delivery of housing mix, mixture of density and allotments sizes within the Cobaki Estate
Town Centre, Village & Community Precincts	The proposal maintains a town centre with all detailed assessment of the changes to the approved Concept Plan included as part of MP06_0316 MOD 4
Employment Lands	The proposed amendments do not alter the delivery of employment lands and the opportunities for delivery of commercial business, retailing, community uses and community and education centres.
Open Space & Environmental Protection Zones	The proposed amendments have no impact upon the open space and environmental protection zone commitments.
Urban Design	<p>The intent and function of the Development Code will remain as currently approved, the proposed amendments will not alter the delivery of quality built form in the estate.</p> <p>Part B of the Code continues to establish Development Controls that provide design guidelines for subdivision, dwelling houses, multi-dwelling housing and town centre development at Cobaki Lakes.</p> <p>Part A of the Code establishes the exempt and complying categories of development. The Code will be used for the assessment of future development applications and complying development certificates for the detailed design and construction of development.</p>
Landforming	The proposed amendments have no impact upon existing landform commitments.
Status of Existing Development Consents	The proposed amendments have no impact upon the continued application of existing consents as nominated in the original MP06_0316.
Future Development Approval Process	The proposed amendments have no impact upon the future development approval process for the delivery of the Cobaki Estate.
Tweed Shire Council DCP	The proposed amendments do not alter the parts of the Tweed Shire Council DCP that continue to apply to the Cobaki Development. This remains as previously committed.

## 5.0 Statutory & Strategic Context

### 5.1 S75W of EP&A Act 1979

Schedule 6A, Clause 3 of the Act relates to Continuation of Part 3A—transitional Part 3A provisions and states that Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project. Section 75W (as in force immediately before the repeal of that Part) 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."*

The proposal is a transitional Part 3A project and can be modified.

## 6.0 Conclusion

This Environmental Assessment supports an application for a modification (MOD 7) to the Cobaki Estate concept approval MP06\_0316. The proposed modification relates to amendments to the residential development provision of the Cobaki Development Code. For consistency purposes and to ensure determination can be made independent of other live modifications to MP06\_0316, this modification also includes the amended Concept Plan and Development Matrix from MOD 4 to MP06\_0316.

It is given the proposed modification can be undertaken pursuant to S75W of the EP&A Act 1979 and support for the requested modification is respectfully requested.