

06 September, 2017

Natasha Harras  
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Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

By email: [Natasha.harras@planning.nsw.gov.au](mailto:Natasha.harras@planning.nsw.gov.au)

Dear Natasha

**Cobaki Concept Plan MP 06\_0316 Modification 9 – Response to Submissions**

We respond to the two submissions which you have provided to us as follows :

**Submission by Office of Environment and Heritage 11 August 2017**

1. The Office's interpretation of Condition C19 (2) is wrong.

The biobanking assessment carried out by Umwelt was a desktop exercise – no assessment on site was conducted. The note to the condition simply conveys the result of that assessment. It does *not* mean that the required offset would be 22.7ha, the sum of 6.77ha and 16ha.

It follows that the modification application is *not* for "a reduction in the required offset requirement for Swamp Sclerophyll Endangered Ecological Community from approximately 22.77ha to approximately 14ha".

2. OEH asserts that " The management regime of the subject area (i.e. slashing) and general development activity within and surrounding the swamp sclerophyll forest, is likely to have reduced the ecological integrity of the subject area and surrounding areas and by default the credit required to offset the loss of swamp sclerophyll forest".

This is factually incorrect. We attach a copy of a Tweed Shire Council letter of 21 June 2005 and relevant pages from a Report on Existing and Continuing Use Rights to which it refers. The Report contains a Statutory Declaration by one Harry Ellis, who declared that from 1989 to March 1995 the entire Cobaki property was utilized for cattle grazing.

We also provide a copy of the front page of a letter from Mallesons Stephen Jacques Solicitors to Leda Holdings of 9 August 1994. The letter provided advice on Leda's then intended purchase of the Cobaki land. Copy of a page of that

letter which includes paragraph 1.18 is also provided, stating that “included in the sale are not less than 330 head of cattle”

The Report on Existing Use Rights also includes a Statutory Declaration by William Robert (Bob) Ell, the Executive Chairman of Leda, who declares that the property was continuously used for cattle grazing from 6 January 1995, when Leda became the owner of the Cobaki land, through to the date of the Declaration, sometime in 2005.

Statutory Declarations can be provided by the writer, by the Farm Supervisor who Leda employed and by Ecologist James Warren to the effect that the property was continuously used for grazing by cattle owned by Leda through 1995 to approximately 2014, when Leda’s cattle were temporarily removed due to the substantial earthworks that were carried out since then. However, a neighbour’s cattle have been agisted on the property since then.

If anything, it may be the case that the property was *more* intensely utilized and managed for grazing around the time of the Umwelt report than it was at the time of the recent JWA Biobanking Assessment Report. There is certainly *no basis for the OEH assertion* referred to.

3. The reduction by 0.34ha in the offset for Lowland Rainforest on Floodplain and Lowland Rainforest.

Mod 1 included the JWA Revised Site Revegetation and Regeneration Plan, April 2013, which calculated the area of these EECs to be removed at 0.11ha and a net gain in their area at completion of 13.19ha, a ratio of 120:1. The now-proposed net gain at completion of 12.85ha compensates for the loss of 0.11ha at a ratio of 117:1.

The now-intended reduction in the area of the combined EECs of 0.34ha represents 1.41% of the earlier intended total area at completion.

Given the above, Leda submits that the reduction is *inconsequential*.

This was explained in Leda’s letter of 06 April 2017 to the Department’s Chris Ritchie, as was the reason for combining the areas of Lowland Rainforest on Floodplain and Lowland Rainforest EECs.

### **Submission by Tweed Shire Council 18 August 2017**

#### **1. Swamp Sclerophyll Offset**

Leda rejects the assertion that the application implies a reduction in a previously required offset area, on the same basis as we do in response to OEH’s similar contention.

Leda submits the proposed reduction of the on site offset from 6.77ha to 5.31ha is not of significance. Clearly, Statement of Commitments 4.8.2 in Mod 1 contemplated the substantial majority of the offset being provided off site.



2. Additional SSF offset reduction

We refer to Yeats Consulting Engineers Stormwater Quality Plan YC00229-SW010 Rev B provided amongst the Annexures to the letter of 6 April 2017 to Chris Ritchie referred to previously herein.

We provide a copy of Michel Group Services plan "Cobaki Estate EEC Table 7" which was also amongst the Annexures to that letter, in which we have marked the now-proposed location of bio-retention basins 10 and 11. Basin 11 is no longer within the proposed SSF offset area.

3. Lowland Rainforest offsets

Leda's response is that the effects of its proposals under this Mod application are not of significance, having regard in each case to the circumstances of the areas in question.

4. Administration

Please advise the Department's requirements in this context.

5. Tweed Coast Comprehensive Koala Plan of Management

We request the Department to advise us of any requirements it may have in relation to this, having regard to Leda's related submissions in Mod 3.

6. Site-wide offset strategy

The modifications proposed under Mod 9 do not significantly alter arrangements previously approved.

Notable in the principals espoused by Council is the absence of other considerations required to achieve balanced outcomes.

Yours faithfully



Reg Van Rij  
**Regional Manager – Residential**

Cc: Chris Wilson