

ASSESSMENT REPORT

Cobaki Estate Residential Community Development Concept Approval MP 06_0316 (MOD 7)

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan Approval MP 06_0316 for a residential community development, referred to as 'the Cobaki Estate' at Cobaki Lakes in the Tweed Shire local government area (LGA).

The request has been lodged by Planit Consulting on behalf of Leda Manorstead Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to amend the Cobaki Estate Development Code to update terminology and amend the Exempt and Complying provisions and Residential and Subdivision controls.

2. SUBJECT SITE

The site is located on the New South Wales and Queensland State border, approximately 1.5 kilometres (km) west of the Gold Coast Airport and approximately 6 km inland of Tweed Heads. The site location is shown in **Figure 1**.



Figure 1: Site location (source: Google Maps)

Adjoining the site to the east is a wetland, protected by *State Environmental Planning Policy No. 14- Coastal Wetlands*, Cobaki Creek and the Cobaki Broadwater. Remnant bushland

forest area is located to the west and north of the site. Agricultural land primarily used for cattle grazing adjoins the site to the south and north-west. To the south-west is a golf course.

3. APPROVAL HISTORY

On 6 December 2010 the Minister for Planning granted Concept Approval for Cobaki Lakes Residential Community Development (MP 06_0316). Approval was granted for the following:

- residential development to cater for approximately 5,500 dwellings
- town centre and neighbourhood centre for future retail and commercial uses
- community facilities and school sites
- open space
- wildlife corridors
- protection and rehabilitation of environmentally sensitive land
- road corridors and utility services infrastructure
- water management areas
- roads and pedestrian and bicycle networks.

The Concept Approval also included a site specific Development Code (the Development Code) to guide future development and built form across the Cobaki Estate.

The Concept Approval has been the subject of a number of modification requests as outlined in **Table 1** below.

Table 1: Summary of Modifications

MOD	Modification	Date Approved / Current Status
1	Include new biodiversity offset arrangements and various administrative changes to conditions	29 May 2013
2	Accommodate a university campus on the site	Withdrawn
3	Reclassification of the vegetation community	On hold
4	Changes to school sites, commercial centres and cultural heritage parks.	31 August 2017
5	Changes to allow private water and wastewater services	29 August 2017
6	Increase the building heights	SEARs issued
8	Increase the building heights	Preparing SEARs
9	Changes to biodiversity offsets	Under assessment

4. PROPOSED MODIFICATION

On 21 January 2017, the Proponent lodged a section 75W modification request (MP 06_0136 MOD 7) seeking approval to amend the Cobaki Estate Development Code, including:

- general formatting changes
- terminology updates to be consistent with the Standard Instrument
- updates to the residential development controls within Section 3.0 and subdivision controls within Section 5.0 of the development code
- inclusion to the MOD 4 Concept Plan and Development Matrix, which sets out the land use mix within the estate.

The modification is requested on the basis that it would allow for consistency between the Cobaki Development Code and the Standard Instrument. It would also amend residential design and subdivision controls to align with the relevant local planning instruments and to allow future development to respond to market demand.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the EP&A Act.

The Department is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and the proposal does not constitute a new application.

5.2 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Deputy Secretary, Planning Services may determine the request under delegation as:

- the relevant local council has not made an objection
- a reportable political donation has not been made
- there were no public submissions in the nature of objections.

The proposal includes changes to the Cobaki Estate Development Code's exempt and complying development provisions which were given effect through a Ministerial Order pursuant to section 75P(2)(d) of the EP&A Act.

The approved Code can be amended by approving the revised Code and making an order to amend the existing section 75P(2)(d) order.

The Minister for Planning is the approval authority for the proposed changes to the Development Code. However, the Deputy Secretary, Planning Services, may approve amendments to the Code under delegation.

6. CONSULTATION

The Department made the modification request publicly available on its website and consulted with Tweed Shire Council (Council) and City of Gold Coast Council.

Tweed Shire Council raised no objections to the proposed changes to the Development Code, but identified a number of issues, including:

- inconsistent terminology
- inconsistency of controls with Plans of Development (POD)
- inclusion of references to water sewer servicing
- incorrect references to plans and Development Matrix.

City of Gold Coast Council raised no objections to the proposed modification.

No public submissions were received.

The Proponent provided a Response to Submissions (RtS) addressing Council's concerns (**Appendix B**). Council reviewed the RtS and requested minor changes relating to terminology, references to services and references to updated plans. An updated RtS was provided addressing these concerns. The Department reviewed the RtS and considers all issues raised by Council have been addressed.

7. ASSESSMENT

The Department has considered the key issues associated with the proposed modification in **Table 2** below.

Table 2: Assessment of issues

Issue	Consideration	Recommendation
<i>Changes to Exempt and Complying Development Provisions</i>	<ul style="list-style-type: none"> Minor changes to the Exempt and Complying Development provisions are proposed. The changes relate to: <ul style="list-style-type: none"> inclusion of exempt provisions for gatehouses inclusion of controls for lots less than 300 m² complying development setback controls complying development fencing controls The Department considers the proposed changes to the Exempt and Complying Development provisions are acceptable as they are consistent with State Environmental Planning Policy (Exempt and Complying Development) 2008 and Council raised no objection. 	No additional conditions or amendments necessary.
<i>Changes to Residential and Subdivision Development Controls</i>	<ul style="list-style-type: none"> The modification request proposes changes to the residential and subdivision development controls with Section 3.0 and 5.0 of the Development Code. The changes relate to: <ul style="list-style-type: none"> dwelling height, massing and siting fencing controls setback controls minimum lot sizes and widths Council reviewed the Development Code, and is satisfied the updated version would be consistent with the Plans of Development (POD) for the subdivision applications currently being assessed and raised no objection to the changes. The Department considers the proposed changes are acceptable as they are consistent with the relevant planning instruments, and would result in appropriate development outcomes within the estate. 	No additional conditions or amendments necessary.
<i>Terminology Updates</i>	<ul style="list-style-type: none"> The proposal seeks to update terminology within the Development Code to achieve consistency with the Standard Instrument. Council reviewed the proposed Development Code and raised no objection to the changes. However, Council noted there were inconsistencies between the existing and proposed terminology. In response, the Proponent provided an updated Development Code. Council recommended a review of the entire document to ensure consistent terminology. The Department has reviewed the updated Development Code, and is satisfied all terminology has been updated and is consistent with the Standard Instrument. 	No additional conditions or amendments necessary.
<i>Consistency with other Applications</i>	<ul style="list-style-type: none"> The Department notes multiple modification applications relating to the site have recently been approved or are currently under assessment. Council's submissions raised concern about the consistency of the proposed changes with MOD 4 and MOD 5. The modification request included an updated Development Matrix and Concept Plan reflecting the changes proposed under MOD 4. The Department notes MOD 4, which proposed changes to school sites, commercial centres and cultural heritage parks, was approved by the Planning Assessment Commission on 31 August 2017. The Department is satisfied the Development Matrix included in the updated Development Code is consistent with that approved under MOD 4. Council initially advised it does not support any changes to the code relating to water and sewer (Section 5.10) as proposed under MOD 5. The Department notes MOD 5 has been approved since Council's submission was received and therefore Section 5.10 already forms part of the approved Code. Council confirmed it does not maintain its objection, as the issues raised in its submission relating to Section 5.10 have been satisfactorily addressed as part of the assessment of MOD 5. The Department is satisfied the references in the revised Code are consistent with the changes already approved under MOD 5. 	No additional conditions or amendments necessary.

<i>Issue</i>	<i>Consideration</i>	<i>Recommendation</i>
	<ul style="list-style-type: none"> The Department is satisfied the proposed changes to the Code would not result in any inconsistency with approved applications and do not incorporate updates relating to applications yet to be approved. 	

8. CONCLUSION

The Department has assessed the modification request and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that it would:

- ensure consistency with other approvals relating to the site
- provide appropriate residential and subdivision controls for the site
- provide terminology consistent with the Standard Instrument.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is recommended that the Deputy Secretary, Planning Services as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report;
- **determine** that the application falls within the scope of section 75W of the EP&A Act;
- **approve** the modification application MP 06_0316 (MOD 7), subject to conditions; and
- **sign** the attached notice of modification (**Appendix A**).
- **sign** the Order to amend the Cobaki Estate Development Code (**Appendix B**).

Recommended by:



Anthony Witherdin
Director
Modification Assessments

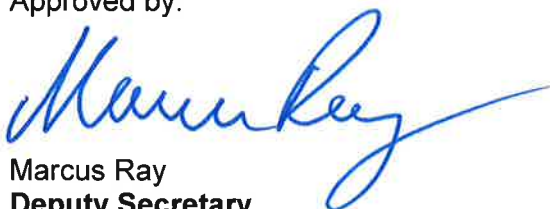
Recommended by:



Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

DECISION

Approved by:



Marcus Ray
Deputy Secretary
Planning Services

26/10/2017

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8216

APPENDIX C: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8216

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8216

3. Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8216