

Modification of Concept Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, the Independent Planning Commission modifies the Concept Approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Member of the Commission

Member of the Commission

Sydney

2018

SCHEDULE 1

Concept Approval:	MP 06_0316 granted by the Minister for Planning on 11 August 2013: <ul style="list-style-type: none">• residential development 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; and• roads, pedestrian and bicycle network.
Proponent:	Leda Manorstead Pty Ltd
Approval Authority:	Minister for Planning
The Land:	Cobaki Estate
Modification:	MP 06_0316 MOD 9: the modification includes: <ul style="list-style-type: none">• amendment to Condition C19 to change the offset requirements for the Swamp Sclerophyll Forest endangered ecological community (EEC); and• changes to the offset requirements for Lowland Rainforest on Floodplain EEC.

SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions, Condition A3 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struckout~~ words/numbers as follows:

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. Revised Ecological Assessment prepared by James Warren and Associates P/L, April 2013
 - f. 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
- 5) Modification Request (MOD 5)
 - a. 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, 21 April 2017, 28 July 2017 and 9 August 2017;
 - b. Revision to Statement of Commitments to reflect the provision of Water and Sewerage Services by the relevant sewer and water authority; and
- 6) Modification Request (MOD 4)
 - a. Modification Report prepared by DAC Planning Pty Ltd, dated May 2016, as revised on 11 July 2017, with the exception of changes sought to Condition C14 'Restrictions on Cats';
 - b. Aboriginal Cultural Heritage Management Plan prepared by Everick Heritage Consultants, February 2017 and Revised Cultural Heritage Parks Report prepared by Everick Heritage Consultants, March 2016.
- 7) Modification Request (MOD 7)
 - a. Modification Report prepared by Planit Consulting, dated December 2016
 - b. Revised Cobaki Estate Development Code Revision 3 dated August 2017

8) Modification Request (MOD 8)

- a. Letter titled '06 0316 Cobaki Residential Community Application to Modify Concept Approval' prepared by Leda Manorstead Pty Ltd dated 3 July 2017

- (b) Schedule 2 Part C – Requirements for Future Applications, Condition C19 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struckout~~ words/numbers as follows:

C19 Biodiversity Offsets

- (1) ~~Details of biodiversity offsets for the loss of Swamp Sclerophyll Endangered Ecological Community on the site must be submitted with any development application for works in Precinct 6.~~

- (2) ~~Total offsets for Swamp Sclerophyll on Coastal Floodplain must be as follows:~~

- a. ~~6.77ha on-site in accordance with the approved Revised Ecological Assessment, April 2013; plus~~
b. ~~additional lands¹ either on-site and/or off-site to compensate for the loss of the offset (as a result of 06_0316 MOD 1), of an area as agreed with OEH.~~

¹Note: The department has noted that using the biobanking calculator, this offset could be in the order of 16 hectares.

- (1) To offset the loss of 3.8 ha of Swamp Sclerophyll Forest Endangered Ecological Community (EEC) the Proponent shall:**

- a. provide a 5.13 ha on-site offset in the location identified in Figure 9 of the Amended Site Revegetation and Regeneration Plan (June 2017) prepared by JWA Pty Ltd;
b. revegetate 5.13 ha of Swamp Sclerophyll Forest EEC in accordance with the Amended Site Revegetation and Regeneration Plan approved by the Secretary under Condition C19A; and
c. Prior to the commencement of construction, the Applicant must retire 159 Swamp Sclerophyll Forest EEC biodiversity credits to the satisfaction of the OEH. The retirement of the credits must be carried out in accordance with the NSW Biodiversity Offsets Policy for Major Projects and can be achieved by:
(i) acquiring and retiring "biodiversity credits" within the meaning of the Biodiversity Conservation Act 2016; or
(ii) making payments into an offset fund that has been developed by the NSW Government; or
(iii) providing supplementary measures, as agreed with the Office of Environment and Heritage.

Note: Following repeal of the *Threatened Species Conservation Act 1995* on 25 August 2017, "biodiversity credits" created under that Act are taken to be "biodiversity credits" under the *Biodiversity Conservation Act 2016* by virtue of clause 19 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*

- (2) To offset the loss of 0.11 ha of Lowland Rainforest vegetation, the Proponent shall:**

- a. provide a 12.96 ha on-site offset in the location identified in Figure 9 of the Amended Site Revegetation and Regeneration Plan (June 2017) prepared by JWA Pty Ltd; and
b. revegetate 12.96 ha of Lowland Rainforest vegetation on-site in accordance with the Amended Site Revegetation and Regeneration Plan approved by the Secretary under Condition C19A.

- (c) Schedule 2 Part C – Requirements for Future Applications, after Condition C19 add new Condition C19A as follows:

C19A *Site Revegetation and Regeneration Plan*

Within three months of the date of determination of MP 06 0316 MOD 9, the Proponent shall prepare and submit an Amended Site Revegetation and Regeneration Plan to the Secretary for approval. The amended plan must:

- a. reflect the offset requirements identified in Term C19 of the Concept Approval;
- b. update Section 3.3 to identify the Swamp Sclerophyll Forest EEC is located on-site;
- c. ensure no areas of Lowland Rainforest on Floodplain EEC within the on-site offset areas are reclassified; and
- d. remove all changes to the EEC offset areas identified in Figure 9 that are not described in the modification request for MP 06 0316 MOD 9¹.

Note¹: For clarity, the changes requested under MP 06 0316 MOD 9 relate to the reduction of the Swamp Sclerophyll Forest EEC on-site offset area from 6.77 ha to 5.13 ha, the reduction of the Lowland Rainforest on-site offset area from 13.30 ha to 12.96 ha, and the reclassification of 0.01 ha of Lowland Rainforest on Floodplain EEC to Lowland Rainforest EEC.

End of Modification