



14 June 2016

Mr Chris Ritchie
Director, Industry Assessments
NSW Department of Planning & Environment
GPO Box 39
SYDNEY, NSW 2000

By email: Chris.Ritchie@planning.nsw.gov.au

Dear Chris,

Re: Cobaki Estate – Project Approval 08_0200 Mod 2

Condition 39A of the above Mod is as follows:

39A Fencing of Environmentally Sensitive Areas – Precinct 9 and 11 Earthworks

Environmentally sensitive areas shall be appropriately fenced during Precinct 9 and 11 earthworks activities, in accordance with the 'Fencing Plan Precinct 9, 11 and SSP (Drawing No. 3310071E-044) prepared by SMEC Urban and dated 10 December 2013' and submitted as part of the Construction Environmental Management Plan.

- a) *The boundaries of rehabilitation and covenant areas together with the 5m buffer to existing threatened flora species is required to be surveyed and marked with high visibility netting barriers/fencing prior to the commencement of any works in Precincts 9 or 11.*
- b) *The establishment of high visibility netting barriers/fencing around the existing Raptor nesting tree (identified on the 'Bulk Earthworks Cut & Fill Plan Sheet 1 of 2 – Drawing No. YC0229-1E1-EC01' prepared by Sedgman Yeats and dated 10 March 2014) is required prior to the commencement of any works in Precinct 9. The barriers/fencing must provide a minimum 5m buffer radius between the existing tree and any physical works.*

The Director-General's Environment Assessment Report of April 2014 makes clear its purpose, by way of its heading itself - *Mod 2 Winning of Fill from Precincts 9 & 11 to be utilised in the Open Central Space area*. It was not intended or authorised that the fill thus won would be placed elsewhere.

In the references below bold is added for emphasis.

At page 18 the report states:

*'In order to protect **native vegetation and EECs** during construction works, the proponent has submitted a Vegetation Management Plan (VMP) as part of CEMP.'*



Also at page 18 the report states that the Department recommends '*...the introduction of new Condition 39A requiring the proponent provide appropriate high visibility barriers/fencing around **environmentally sensitive areas in both Precincts 9 and 11** prior to the commencement of any earthworks. The agency is satisfied that existing **threatened flora and EECs** will be protected through the successful implementation of the VMP prepared for the site and the bulk earthworks fencing plan, both submitted as part of the modification.*'

In the above the focus on

- environmentally sensitive areas,
- threatened flora and EECs,
- in Precincts 9 and 11

is clear.

The Vegetation Management Plan (SMEC, December 2013 Rev 1) underpins this focus, setting (Page 5) the target that there should be "*no loss or damage to **threatened flora species, retained Endangered Ecological Communities or significant impact on native vegetation outside of the earthworks boundaries.***"

The earthworks areas referred to are, of course, the defined borrow-pit areas within Precincts 9 and 11.

At page 18 of the VMP the listed pre-clearing protocols, introduced with "*prior to any clearing within Precincts 9 and 11...*", make clear concern for areas *adjacent* to the intended earthworks:

- *All retained vegetation will be clearly delineated using parawebbing and/or exclusion fencing prior to any earthworks to ensure that vehicles and other direct disturbances associated with earthworks do not encroach into **adjacent habitat containing threatened species.***

Clearly, the intent of Condition 39A was to protect

- **environmentally sensitive areas**
- **adjacent to cut earthworks within Precincts 9 and 11 and fill earthworks within the Central Open Space**

The fencing plan at Appendix A of the VMP does not correctly capture these requirements. We explain why with reference to the attached copy of the plan.

Area 1

- Area 1 is not "environmentally sensitive"
 - The site Revegetation and Regeneration Plan (James Warren & Associates, October 2010) which formed part of the Concept Plan Approval includes
 - figure 9, Condition Assessment, in which the condition of this area is assessed as "very poor".
 - figure 4, Rehabilitation and Management Precincts, which proposes this area for *revegetation*, and
 - figure 5, Endangered Ecological Community Offset Areas, which then proposed the area partly for Freshwater Wetland (within the indicated proposed drain lines) and the balance for Swamp Sclerophyll.

The above classifications were maintained in the "Revised Site Revegetation and Regeneration Plan" (JWA April 2013) forming part of Mod 1 to the Concept Plan and Mod 1 to the Project Approval.

Both plans define "*very poor condition*" as one in which "*structure and/or composition severely altered. Either insufficient biota remain for natural regeneration (except some ruderal species), or severe weed infestation occurs and is likely to prevent native regeneration*", and the plans state that "*the proposed revegetation areas will use*

enhancement plantings to embellish and improve areas which are currently void of any native vegetation community”.

- o It is zoned Private Recreation, not Environmental Protection.
 - o Not only must the existing vegetation within Area 1 be removed prior to revegetation, but along two of its boundaries an extension of Minor Drain 1 approved (and constructed) within the Central Open Space, and the excavation of Minor Drain 2 are intended, each approximately 30m in width.
- It is not adjacent to or connected with the excavations within the approved borrow areas in Precincts 9 and 11 the subject of the Mod in question.

It should be noted that the covenant area intended in current planning to be imposed over part of Area 1 is a remnant of early proposals. What is intended is that the area be protected *before its revegetation* (with Swamp Sclerophyll trees) occurs, arising from which the area would *then* become of value. *That* would be the time for fencing, temporary or permanent.

I enclose copies of two Sedgman Yeats plans which show the location of the “minor drain” within the Central Open Space and its planned extension in Area 1.

Area 2

Area 2 is to be protected by covenant in order to preserve two old growth trees. However, the area has nothing to do with the works intended under the Mod in question.

Area 3

This area of fencing is not adjacent to, or close to, the borrow pit in Precinct 9 the subject of the Mod.

Areas 4, 5 and 6

These lengths of fencing are not connected with the filling of the *Central Open Space*.

The fencing plan that became Appendix A to the VMP developed out of an earlier fencing plan for the *site as a whole*. Clearly, in hindsight, it did not properly reflect the intent of Mod 2.

I enclose a copy of the letter from SMEC of 06 May 2016 in relation to these matters.

Raptors Nest

The tree containing the raptors nest, which our Environmental Officer had determined was no longer being utilised, is wrongly located in the fencing plan referred to. It was actually located at the edge of the adjacent environment zone, but was felled by a person or persons unknown in December last year.

Having regard to the above we request that the attached fencing plan replaces that at Appendix A of the VMP, and that Condition 39A be replaced with the following:

39A Fencing of Environmentally Sensitive Areas – Precinct 9 and 11 Earthworks

The boundaries of environmentally sensitive areas in accordance with “Fencing Plan Precinct 9, 11 Borrow Areas Drawing No. 3310071E-044(2)”, together with the 5m buffer to existing threatened flora species within Vegetation Management Areas 7 and 8, shall be surveyed and appropriately marked with either high visibility netting barriers/fencing or permanent fencing during Precinct 9 and 11 earthworks activities.

Condition 39B should be deleted.

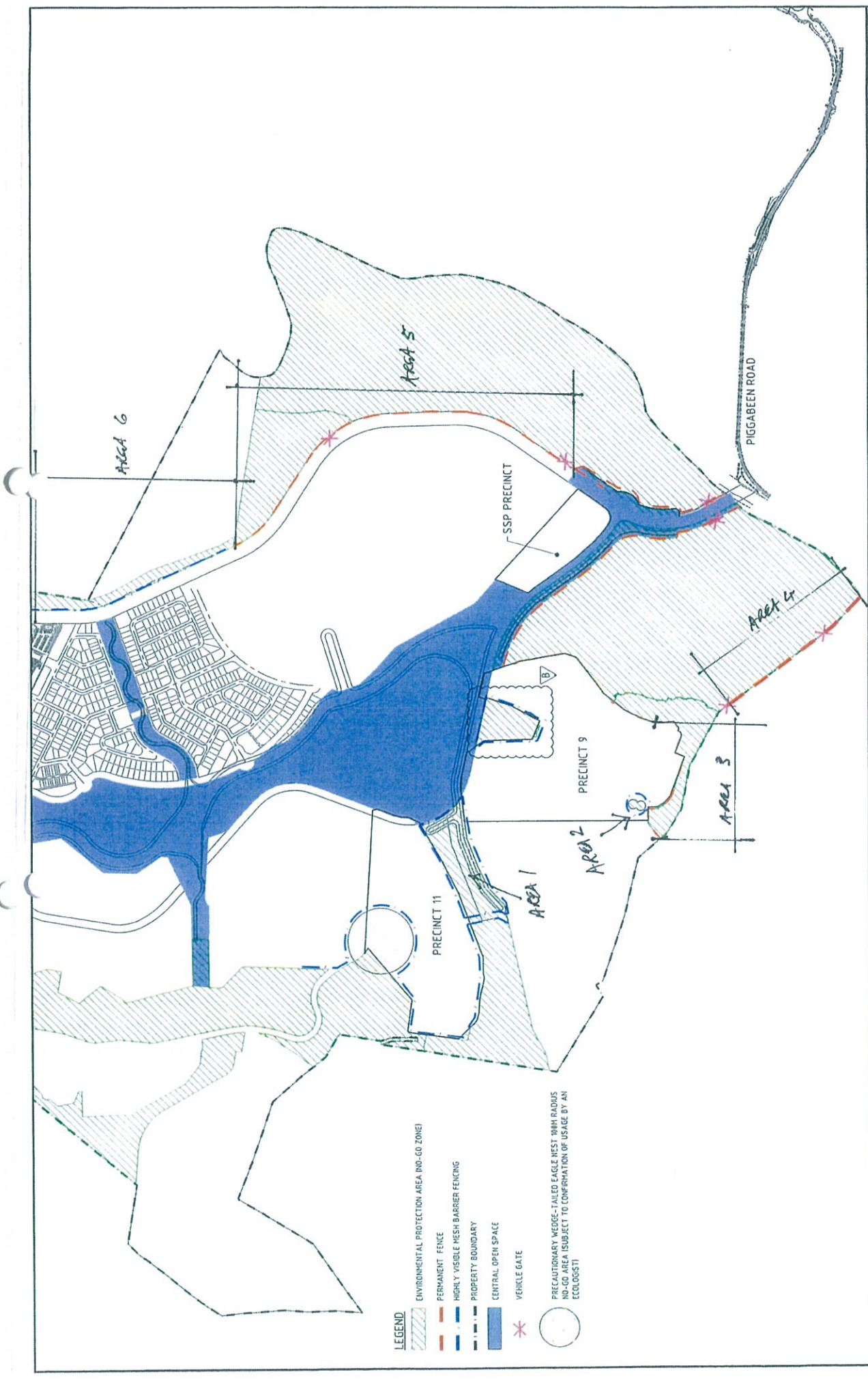
Whilst the fencing in the conditioned fencing plan has been constructed, our motive in requesting this amendment is two-fold.

- A correct fencing plan in terms of the intent of the Condition should be applied.
- The site is regularly trespassed by off-road bikers who frequently cause damage to our fencing/gates, amongst other things. Whilst this has been reported to local Police and Tweed Shire Council, it is near impossible to control. We do not wish to be found non-compliant in regard to fencing that has been so damaged, where reference is made to the current, incorrect fencing plan.

Yours faithfully



Reg Van Rij
Regional Manager – Residential



LEDAL

Principal
Urban Development
Suite 14, Level 1, 46 Curtin Avenue
Brisbane QLD 4000

DATE: 08/03/11

Project Leader
S. Smead
Designer
D. Smead
Drawn
J. Flynn
Checked
D. Smead
Authorised
D. Smead
Date
10/12/2010
Approved
10/12/2010

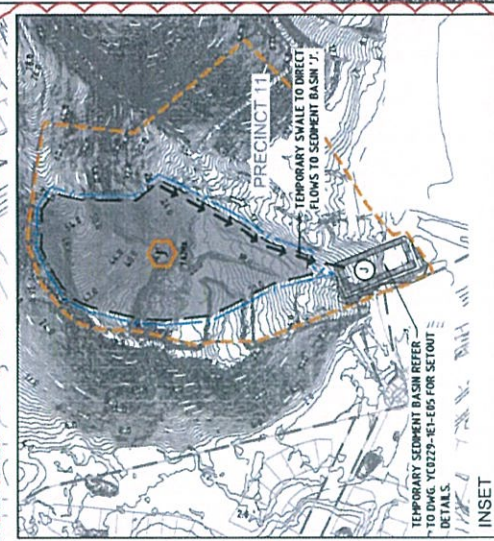
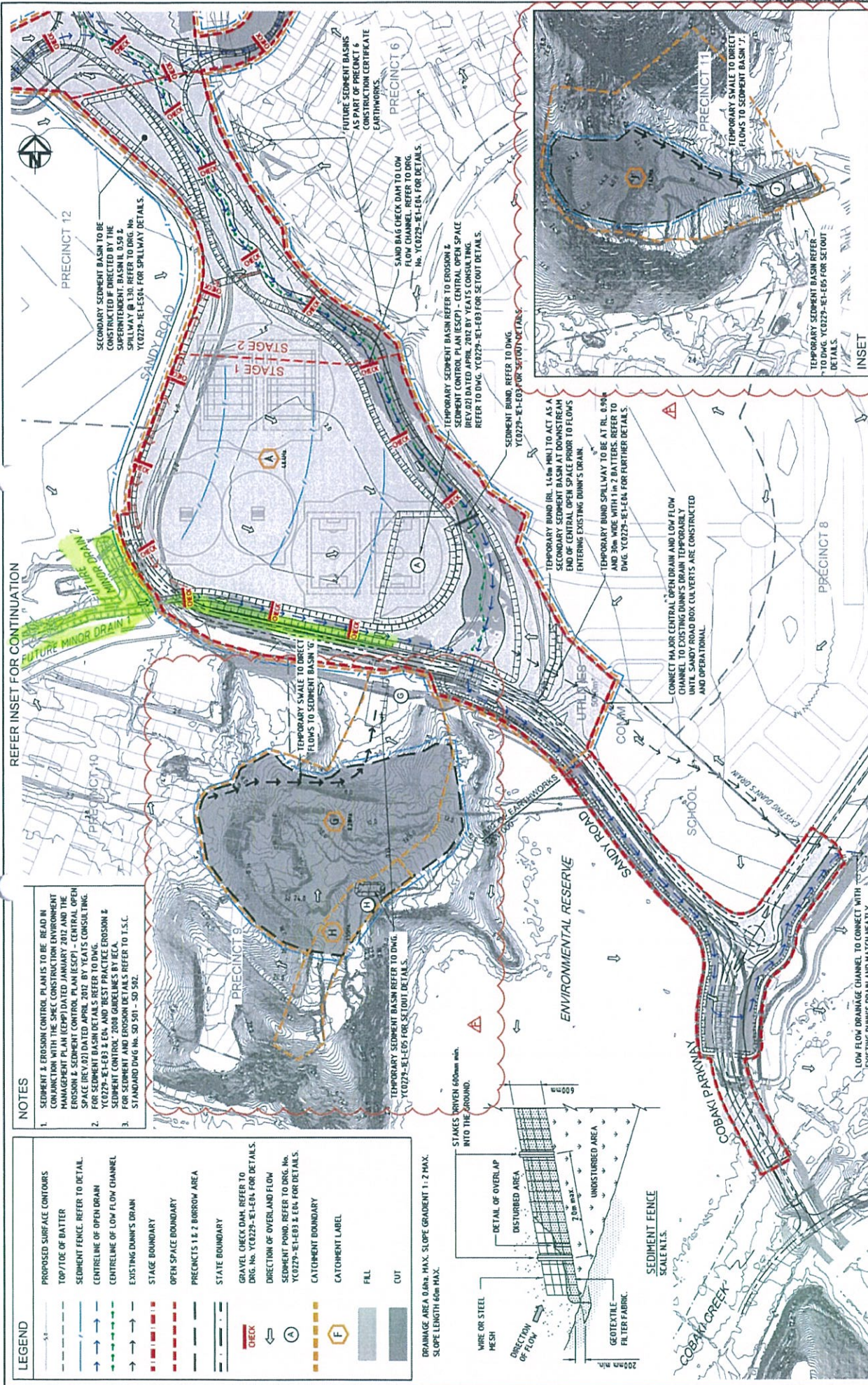
Scale @ A1

© SA Urban Pty Ltd
All rights reserved.
These designs and drawings are the property of SA Urban Pty Ltd. This drawing shall not be reproduced or copied, in whole or in part, without the written permission of SA Urban Pty Ltd. The contents of this drawing are confidential and may only be used for the purposes for which they are intended.

Simac Urban
Suite 10, 100 St. Johns Road, QLD 4011
Phone: +61 7 3251 4000
Fax: +61 7 3251 4000
Email: info@simac.com.au

COBAKI ESTATE
OVERALL
Tweed Shire Council
Fencing Plan Precinct 9, 11 and SSP
Drawing No. 331007E-044

Sheet No. 1 of 1
Rev B
Subject to Approval
Not to be used for construction

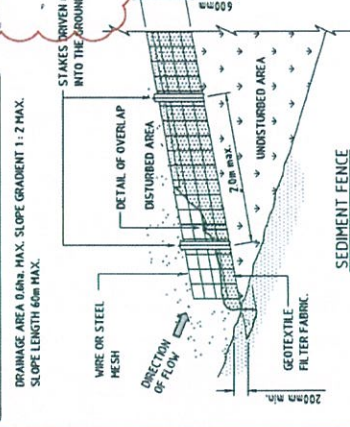


- NOTES**
1. SEDIMENT & EROSION CONTROL PLANS TO BE READ IN CONJUNCTION WITH THE SHEC CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (KEMP) DATED JANUARY 2012 AND THE EROSION & SEDIMENT CONTROL PLAN (ESCP) - CENTRAL OPEN SPACE (REV 02) DATED APRIL 2012 BY YEATS CONSULTING.
 2. FOR SEDIMENT BASIN DETAILS REFER TO DWG. YC0229-E1-E03 & E04 AND 'BEST PRACTICE EROSION & SEDIMENT CONTROL' 2008 GUIDELINES BY IECA.
 3. FOR SEDIMENT AND EROSION DETAILS REFER TO I.S.C. STANDARD DWG No. SD 301 - SD 302.

LEGEND

---	PROPOSED SURFACE CONTOURS
---	TOP/TOE OF BATTER
---	SEDIMENT FENCE. REFER TO DETAIL.
---	CENTRELINE OF OPEN DRAIN
---	CENTRELINE OF LOW FLOW CHANNEL
---	EXISTING DUNN'S DRAIN
---	STAGE BOUNDARY
---	OPEN SPACE BOUNDARY
---	PRECINCTS 1 & 2 BURROW AREA
---	STATE BOUNDARY
---	GRAVEL CHECK DAM. REFER TO DWG. No. YC0229-E1-E04 FOR DETAILS.
---	DIRECTION OF OVERLAND FLOW
---	SEDIMENT POND. REFER TO DWG. No. YC0229-E1-E03 & E04 FOR DETAILS.
---	CATCHMENT BOUNDARY
---	CATCHMENT LABEL
---	FILL
---	CUT

DRAINAGE AREA 0.0ha - MAX. SLOPE GRADIENT 1:7 MAX.
 SCOPE LENGTH 60m MAX.



PROJECT

EROSION & SEDIMENT CONTROL PLAN
SHEET 1 OF 2

TASK	BY	DATE	APPROVED	SCALE	TRIT
DESIGN	CS	18.03.11			
REVIEW	CS	18.03.11			
ISSUE	CS	18.03.11			
REVISION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			
NO.	CS	18.03.11			
DESCRIPTION	CS	18.03.11			
DATE	CS	18.03.11			



Level 1, 7027 Southport-Nerang Road
Nerang, QLD 4211, Australia
(PO Box 953, Nerang, QLD 4211, Australia)
T +61 7 5578 0200 F +61 7 5578 0203 E goldcoast@smec.com
www.smec.com

6/5/2016

Leda Manorstead Pty Ltd
46 Cavill Avenue
Surfers Paradise
QLD 4217

Attn: Reg Van Rij

Dear Reg,

RE: Clarification of Fencing Plans

As requested, I confirm my verbal advice in relation to Fencing Plan No 3310071E-044 and its various revisions.

The plan was prepared in relation to the Project Approval for the earthworks to the Central Open Space, and revisions to it arose from the various Modifications to that Project Approval.

The intent in relation to these plans has always been that fencing, whether permanent or temporary, would only be constructed in particular areas prior to earthworks commencing in adjacent areas. Areas not subject to construction activities in the foreseeable future could be left unfenced until such time as construction was proposed in the immediate vicinity.

The length of fencing shown in the drawing adjacent to Cobaki Parkway and opposite Precinct 6 is not relevant to any of the earthworks contemplated under the Project Approval of the Central Open Space and its Modifications.

The various revisions of Fencing Plan No 3310071E-044 are derived from an overarching plan of the whole site and have been amended to reflect the specific requirements of the Modifications. The inclusion of the fencing opposite Precinct 6 is an inadvertent inclusion resulting from this process.

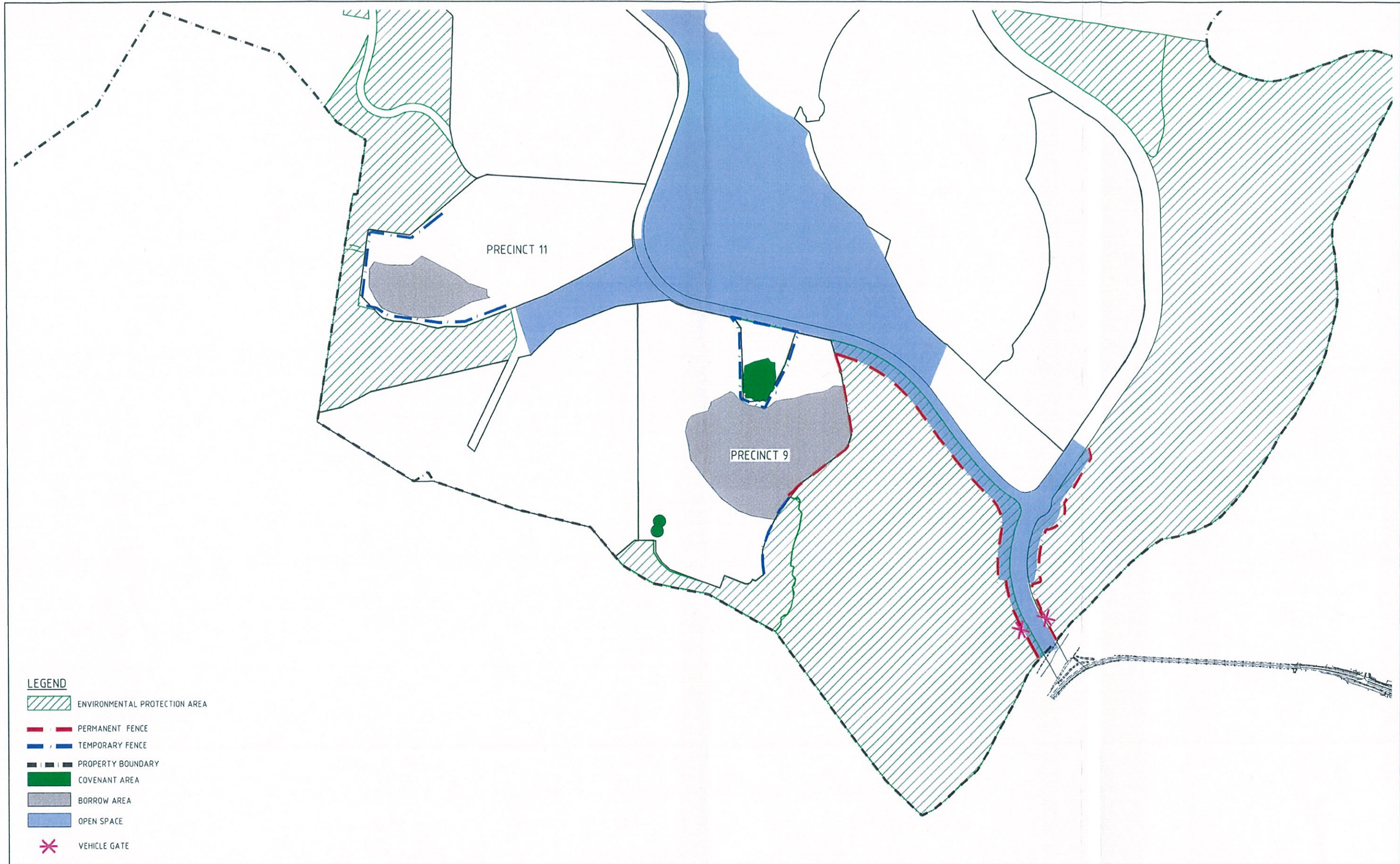
Finally, areas 7 and 10 in JWA's "Rehabilitation and Management Precincts" plan are proposed for *revegetation* and, as such, vegetation currently within these areas is, on their analysis, not of significance, other than in respect of any areas of established trees and shrubs.

If you require additional information or would like to discuss further please feel free to contact me on the numbers provided.

Yours sincerely,

Jon Alexander
Principal Environmental Scientist





- LEGEND**
- ENVIRONMENTAL PROTECTION AREA
 - PERMANENT FENCE
 - TEMPORARY FENCE
 - PROPERTY BOUNDARY
 - COVENANT AREA
 - BORROW AREA
 - OPEN SPACE
 - VEHICLE GATE

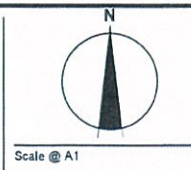
REVISION	DATE	DESIGN	APPD
A	08/06/16	AM/CH	

A Issued for Approval

LEDA

Principal
Leda Developments
Suite 14, Level 1, 46 Cavill Avenue
Surfers Paradise

Project Leader
S. Sandford
Designed
A. Marsden
Drawn
C. Haywood
Checked
Authorised
Date
June 2016



© SM Urban Pty Ltd
ABN 99 124 206 819

These designs and drawings are the copyright of SM Urban Pty Ltd. The drawing shall not be reproduced or copied, in whole or part, without the written permission of SM Urban Pty Ltd. The contents of this drawing are electronically generated, are confidential and may only be used for the purpose for which they are intended.

smec urban
consulting group

Smec Urban
Prana Centre, PO Box 953, Nerang, QLD, 4211
p +61 7 5578 0222 | f +61 7 5578 0202 | www.smecurban.com.au

Adelaide +61 8 8223 6456 Melbourne +61 3 9889 0800
Brisbane +61 7 3821 8588 Perth +61 8 9223 5900
Goldberg +61 3 9228 3100 Traralgon +61 3 5173 9100

COBAKI ESTATE
Precinct 9 & 11
Tweed Shire Council
Borrow Areas
Fencing Plan Precinct 9,11 Borrow Areas
Drawing No. 3310071E-044 (2) Rev A

Sheet No. 1 of 1

Subject to Approval
Not to be used for construction