
Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I, the Deputy Director-General, approve the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the Statement of Commitments in Schedule 3.

These conditions are required to:

- Adequately mitigate the actual and potential environmental impacts of the project;
- Maintain the principles of ecologically sustainable development and protect the environment;
- Ensure protection and restoration of threatened species and their habitat; and
- Maintain the ecological integrity of the site, endangered ecological communities and the health of the adjacent Cobaki Broadwater.



**Deputy Director-General
Development Assessment & Systems Performance**

Sydney,

28th February 2011

SCHEDULE 1

PART A - TABLE

Application made by:	LEDA Manorstead Pty Ltd
Application made to:	Minister for Planning
Project Application Number:	08_0200
The site:	Cobaki Estate, Cobaki Lot 1 DP 570076, Lot 2 DP 566529, Lot 1 DP562222, Lot 1 DP 570077, Lot 1 DP 823679 and Lots 46,54, 55, 199, 200, 201, 202, 205, 206, 209, 228 and 305 DP 755740
Local Government Area	Tweed
For the carrying out of:	<ul style="list-style-type: none">• Subdivision of the entire Cobaki Estate site into seven (7) lots (including one residue lot for future urban development – Lot 807);• Staged bulk earthworks to create the central open space, riparian corridor, structured open space, and future stormwater drainage area;• Road forming works and culverts crossing the central open space (including Lot 802);• Road forming works across saltmarsh areas, including culverts and trunk sewer and water services (Lot 804);• Revegetation and rehabilitation of environmental protection areas for coastal saltmarsh (Lots 805 and 806); and• Establishment of freshwater wetland and fauna corridors (Lots 801 and 803).
Type of development:	Project Application
Determination made on:	

PART B - NOTES RELATING TO THE DETERMINATION OF MP NO. 08_0200

Responsibility for other consents / certificates / agreements

The Proponent is solely responsible for ensuring that all additional consents, certificates and agreements are obtained, modified or surrendered from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Appeals - Third Party

A third party has the right to appeal this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Legal notices

Any advice or notice to the approval authority shall be served on the Director-General.

PART C - DEFINITIONS

In this approval:

Act means the *Environmental Planning and Assessment Act 1979*.

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

BCA means Building Code of Australia.

Central Open Space Area means the area generally identified by the *Cover Sheet and Locality Plan*, Revision B prepared by Yeats Consulting Engineers and dated 17 September 2010.

Cobaki Estate means the site the subject of the Concept Plan Approval (06_0316)

Council means Tweed Shire Council, or an authorised representative of Tweed Shire Council.

DECCW means the Department of Environment Climate Change and Water.

Department means the Department of Planning.

Director-General means the Director-General of the Department of Planning.

Environmental Assessment means the *Environmental Assessment Report: Cobaki Lakes Estate – Project Application No. 08_0200 for Central Open Space, Lake and Riparian Corridor*, Volumes 1 and 2 (and all associated Appendices) prepared by JBA Urban Planning Consultants Pty Ltd on behalf of LEDA Manorstead Pty Ltd, dated December 2009.

Minister means the Minister for Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Preferred Project Report means the *Preferred Project Report: Cobaki Lakes Estate – Project Application No. 08_0200 for Central Open Space and Riparian Corridor*, Volumes 1 and 2 (and all associated Appendices) prepared by JBA Urban Planning Consultants Pty Ltd on behalf of LEDA Manor Pty Ltd, dated July 2010; and the *Addendum to the Preferred Project Report: Cobaki Estate Part 3A Project Application (MP08_0200) for Central Open Space and Riparian Corridor*, Volumes 1 and 2 (and all associated Appendices) prepared by JBA Urban Planning Consultants Pty Ltd on behalf of LEDA Manorstead Pty Ltd, dated October 2010.

Project means the project as described in Condition A1 to this approval.

Proponent means LEDA Manorstead Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Site has the same meaning as the land identified in Part A of this schedule.

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SCHEDULE THREE

SCHEDULE 2

CONDITIONS OF APPROVAL

ADMINISTRATIVE CONDITIONS

1. *Project Description*

Project approval is granted only to:

PART ONE - SUBDIVISION

- Subdivision of the entire Cobaki Estate site into seven (7) lots (including one residue lot for future urban development – Lot 807);

PART TWO – BULK EARTHWORKS AND CIVIL WORKS

- Staged bulk earthworks to create the central open space, riparian corridor, structured open space, and future stormwater drainage area;
- Road forming works and culverts crossing the central open space (including Lot 802);
- Road forming works across saltmarsh areas, including culverts and temporary trunk sewer and water services (Lot 804);

PART THREE – ENVIRONMENTAL ENHANCEMENT WORKS

- Revegetation and rehabilitation of environmental protection areas for coastal saltmarsh (Lots 805 and 806); and
- Establishment of freshwater wetland and fauna corridors (Lots 801 and 803).

2. *Concept Plan – Cobaki Estate*

The project shall be generally undertaken within the terms of the concept approval for the Cobaki Estate (Project 06_0316) approved by the Minister on 2 December 2010.

3. *Project in Accordance with Plans*

The project shall be undertaken generally in accordance with the following plans, except where varied by conditions of approval:

Civil Drawings prepared by Yeats Consulting Engineers			
Drawing No.	Revision	Name of Plan	Date
YC0229-1P1-D01	B	Cover Sheet and Locality Plan	17 September 2010
YC0229-1P1-D02	C	Index Sheet	5 October 2010
YC0229-1P1-D03	B	Scope of Works and Key Sheet Plan	17 September 2010
YC0229-1P1-A01	B	Alignment Details	17 September 2010
YC0229-1P1-CL01	B	Cobaki Parkway Longitudinal Section	17 September 2010
YC0229-1P1-DL01	B	Major Central Open Drain Longitudinal Section – Sheet 1 of 3	17 September 2010
YC0229-1P1-DL02	B	Major Central Open Drain Longitudinal Section – Sheet 2 of 3	17 September 2010
YC0229-1P1-DL03	B	Major Central Open Drain Longitudinal Section – Sheet 3 of 3	17 September 2010
YC0229-1P1-BR01	B	Proposed Breaches to Cobaki Creek	17 September 2010

		Embankment	
YC0229-1P1-SL01	B	Sandy Road Longitudinal Section Sheet 1 of 2	17 September 2010
YC0229-1P1-SL02	B	Sandy Road Longitudinal Section Sheet 2 of 2	17 September 2010
YC0229-1P1-TS01	B	Cobaki Parkway and Sandy Road Typical Cross Sections	17 September 2010
YC0229-1P1-TP01	B	Temporary Water and Sewer Rising Main Plan	17 September 2010
YC0229-1P1-DL01	B	Drainage Layout Cobaki Parkway and Sandy Road South	17 September 2010
YC0229-SK114	A	Proposed Saltmarsh Drainage Plan Sheet 1 of 2	27 September 2010
YC0229-SK115	A	Proposed Saltmarsh Drainage Plan Sheet 2 of 2	27 September 2010
YC0229-SK116	A	Proposed Saltmarsh Rehabilitation Staging Works Sheet 1 of 2	27 September 2010
YC0229-SK117	A	Proposed Saltmarsh Rehabilitation Staging Works Sheet 2 of 2	27 September 2010
Earthworks Drawings prepared by Yeats Consulting Engineers			
Drawing No.	Revision	Name of Plan	Date
YC0229-1P1-EC01	B	Cut and Fill Plan Sheet 1 of 2	17 September 2010
YC0229-1P1-EC02	B	Cut and Fill Plan Sheet 2 of 2	17 September 2010
YC0229-1P1-ES01	B	Bulk Earthworks Sections Sheet 1 of 2	17 September 2010
YC0229-1P1-ES02	B	Bulk Earthworks Sections Sheet 2 of 2	17 September 2010
YC0229-1P1-ES03	B	Bulk Earthworks Typical Sections	17 September 2010
YC0229-1P1-EW01	B	Bulk Earthworks Layout Plan Sheet 1 of 8	17 September 2010
YC0229-1P1-EW02	B	Bulk Earthworks Layout Plan Sheet 2 of 8	17 September 2010
YC0229-1P1-EW03	B	Bulk Earthworks Layout Plan Sheet 3 of 8	17 September 2010
YC0229-1P1-EW04	B	Bulk Earthworks Layout Plan Sheet 4 of 8	17 September 2010
YC0229-1P1-EW05	B	Bulk Earthworks Layout Plan Sheet 5 of 8	17 September 2010
YC0229-1P1-EW06	B	Bulk Earthworks Layout Plan Sheet 6 of 8	17 September 2010
YC0229-1P1-EW07	B	Bulk Earthworks Layout Plan Sheet 7 of 8	17 September 2010
YC0229-1P1-EW08	B	Bulk Earthworks Layout Plan Sheet 8 of 8	17 September 2010
YC0229-1P1-SK02	A	Phase 1 – Landforming/Earthworks Layout Plan	22 December 2010
Sediment and Erosion Control Plans			
Drawing No.	Revision	Name of Plan	Date
YC0229-1P1-E01	B	Erosion and Sediment Control Plan Sheet 1 of 2	17 September 2010
YC0229-1P1-E02	B	Erosion and Sediment Control Plan Sheet 2 of 2	17 September 2010

Plan of Subdivision prepared by Michel Group Services			
Drawing No.	Issue	Name of Plan	Date
6400-162	I	Subdivision Plan Cobaki Lakes	19 November 2010
Management Plans			
Author	Title		Date
Yeats Consulting Engineers	<i>Stormwater Quality Concept Plan</i>		September 2010 Revision 02
James Warren and Associates	<i>Revised Saltmarsh Rehabilitation Plan – Cobaki Lakes</i>		October 2010
James Warren and Associates	<i>Revised Freshwater Wetland Rehabilitation Plan – Cobaki Lakes</i>		October 2010
James Warren and Associates	<i>Revised Site Regeneration and Revegetation Plan – Cobaki Lakes</i>		October 2010
Mosquito Consulting Services	<i>Biting Midge and Mosquito Control Plan – Cobaki Lakes</i>		May 2008
Everick Consultants P/L	<i>Final Cobaki Lakes Cultural Heritage Management Plan</i> approved as part of the Cobaki Estate Concept Plan (06_0316).		April 2010
James Warren and Associates	<i>Fauna Management Plan</i>		October 2009

4. Project in Accordance with Documents

The project will be undertaken generally in accordance with the following documentation (including any Appendices contained therein):

- Environmental Assessment Report: Cobaki Lakes Estate – Project Application No. 08_0200 for Central Open Space, Lake and Riparian Corridor*, Volumes 1 and 2 (and all associated Appendices) prepared by JBA Urban Planning Consultants Pty Ltd on behalf of LEDA Manorstead Pty Ltd, dated December 2009; and
- Preferred Project Report: Cobaki Lakes Estate – Project Application No. 08_0200 for Central Open Space and Riparian Corridor*, Volumes 1 and 2 (and all associated Appendices) prepared by JBA Urban Planning Consultants Pty Ltd on behalf of LEDA Manorstead Pty Ltd, dated July 2010.
- Addendum to the Preferred Project Report: Cobaki Estate Part 3A Project Application (MP08_0200) for Central Open Space and Riparian Corridor*, Volumes 1 and 2 (and all associated Appendices) prepared by JBA Urban Planning Consultants Pty Ltd on behalf of LEDA Manorstead Pty Ltd, dated October 2010.

5. Inconsistency between documents

In the event of any inconsistency between:

- The conditions of this approval and the drawings/documents referred to in Conditions 3 and 4 above, the conditions of this approval prevail to the extent of the inconsistency;
- Any document listed in Conditions 3 and 4 above and any other document listed in Conditions 3 and 4 above, the most recent document shall prevail to the extent of the inconsistency; and
- The conditions of this approval and the proponent's Statement of Commitments, the conditions of this approval prevail to the extent of the inconsistency.

6. Building Code of Australia

Where relevant, all work must be carried out in accordance with the requirements of the *Building Code of Australia*.

7. Subdivision Manual

- a. All works approved as part of this project are to be carried out generally in accordance with Council's *Development Control Plan Part A5 - Subdivision Manual* and Council's relevant Development Design and Construction Specifications unless otherwise altered by the provisions of the Cobaki Estate Development Code.

Note: minor variations to the drawings approved in this approval may be required and approved in applications for construction certificate at the discretion of Council.

- b. Notwithstanding condition 7a above, where there is any inconsistency, the conditions of this approval, the Cobaki Estate Concept Plan (06_0316) and Cobaki Estate Development Code prevail to the extent of the inconsistency.

8. Certification

- a. Construction Certificate: Prior to the commencement of works, the proponent must obtain the appropriate Construction Certificate(s) for the proposed works from either the Council or an accredited certifier.
- b. Subdivision Certificate: Prior to registration of the plan of subdivision of the project, under Division 3 of Part 23 of the *Conveyancing Act 1919*, a Subdivision Certificate pursuant to Section 109C(1)(d) of the Act must be obtained from the Council.
- c. Notwithstanding any other condition of this approval, separate Construction Certificates for bulk earthworks and civil works (including any approved staging) may be issued.
- d. Submission of relevant certificates may occur in a staged manner consistent with the indicative construction timing approved as part of the CEMP, or as otherwise agreed to by the PCA.

9. Lapsing of Approval

In order that the approval remains relevant to the planning intent for the area, the approval shall lapse 5 years after the determination date in Part A of Schedule 1 of this approval unless the proponent has demonstrated that work has physically commenced.

PART ONE – SUBDIVISION:

SUBDIVISION

10. Subdivision

The proponent shall subdivide the entire Cobaki Estate site prior to commencing any embellishment works or dedicating any land within the central open space area. The subdivision at this stage shall be generally in accordance with the following plan:

Draft Plan of Subdivision prepared by Michel Group Services			
Drawing No.	Issue	Name of Plan	Date
6400-162	I	Subdivision Plan Cobaki Lakes	19 November 2010

Note :
It is
intend
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that

the land shall remain in the ownership of Leda Manorstead Pty Ltd until such time as the land is suitably embellished and dedicated to Council. These works shall be staged progressively. Preliminary landscape plans for the progressive stages of the central open space area will be submitted with all future development applications / project applications for all development precincts approved by the Concept Plan for Cobaki Estate (06_0316). All detailed landscape plans will require approval from Council prior to the issue of construction certificate for each precinct. New allotments will be created to allow parts of the central open space area to be dedicated to Council as surrounding development precincts are constructed.

11. Registration of Easements / Restrictions to use / Right of carriageway

- a. The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - I. Easements for sewer, water supply and stormwater/drainage over all public services/infrastructure on private property.
 - II. Stormwater/drainage easements are to be placed over all relevant surface drains, all subsurface drains and inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
- b. Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

Note: Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the *Community Land Development Act 1989*, *Strata Schemes Management Act 1996*, *Conveyancing Act 1919*, or other applicable legislation.
- c. A Section 88B Instrument shall be submitted with the Subdivision Certificate application, for Council's endorsement, creating all necessary easements for services, access, stormwater/drainage, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the *Conveyancing Act 1919* (including any necessary temporary arrangements).
- d. Pursuant to Section 88BA of the *Conveyancing Act 1919* (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened, and for costs to be shared equally or proportionally on an equitable basis
- e. The restriction is to be clearly marked on the plan of subdivision and Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

PART TWO – BULK EARTHWORKS AND CIVIL WORKS

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

12. Completion of Subdivision

Prior to the dedication of any land within the central open space area to Council, the proponent shall provide the PCA with documentary evidence that the subdivision referred to in Part One of this approval has been registered with the Land Titles Office.

13. Bond for Works

Prior to the issue of a Construction Certificate for Civil Works, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the Civil works as set out in Council's fees and charges at the time of payment. The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this approval, which are not being addressed to the satisfaction of Council.

The bond will be refunded, if not expended, when the associated Subdivision Certificate is issued.

14. Long Service Levy

In accordance with Section 109F(i) of the Act, a Construction Certificate for subdivision works or building works shall not be issued until any long service levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

Civil Works

15. Open Space Delivery

Within two months of issue of the first construction certificate for any works, the proponent is to submit for the approval of Council, an *Open Space Delivery Plan* detailing how different stages of the central open space area are proposed to be delivered and dedicated to Council in stages with the development and completion of adjacent development precincts. Such areas proposed to be dedicated to Council shall generally comply with the requirements of Council's *Development Control Plan Part A5 - Subdivision Manual*, unless otherwise altered by the approved Cobaki Estate Development Code, or as otherwise approved by Council.

This plan shall also include indicative detail on how the central open space area will make provision for progressive dedication of open space areas to Council as development on Cobaki Estate proceeds. This may include any proposed re-subdivision of the central open space area.

Note: Prior to the issue of a Subdivision Certificate for any subsequent Development Precinct within Cobaki Estate, the following works under this approval should be completed to Council's satisfaction (subject to variations as agreed to by Council):

- a. Bulk earthworks
- b. Sub-soil drainage
- c. Surface drainage (major and minor open drains)
- d. Transverse drainage structures under Sandy Road and Cobaki Parkway

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- e. Road formation bulk earthworks for those portions of Sandy Lane and Cobaki Parkway within the precinct boundary.
 - f. Road formation to trafficable all-weather standard from Cobaki Parkway to western side of Central Precinct
 - g. All weather vehicular accesses for maintenance along all both sides of the major central open drain, and on one side of minor open drains, including the open drain between the major central open drain and Cobaki Creek (Dunn's Drain).
 - h. Completion of approved preliminary landscaping works (stabilisation) associated with this Project Application.
 - i. Trunk water and sewerage works.

Where works are not complete prior to the request for a Subdivision Certificate for another Development Precinct of Cobaki Estate, the Proponent may approach Council to enter into bond arrangements for the outstanding works. The acceptance of such a Bond is entirely at Council's discretion and is generally 125% the value of the works being bonded.

16. Stormwater

- a. Stormwater management measures shall be implemented in general accordance with the *Stormwater Quality Concept Plan Revision 02* prepared by Yeats Consulting Engineers, dated September 2010. Notwithstanding, such measures shall be consistent with current best practice Water Sensitive Urban Design (WSUD) and shall ensure the preservation of water quality within Cobaki Creek and Cobaki Broadwater.
- b. The low flow component of major central open drain shall be contained within a proposed drainage reserve. This drainage reserve shall not be utilised for any environmental offsets and shall be maintained by Council, following completion of a Council agreed maintenance period for drainage purposes only.
- c. Prior to the issue of a construction certificate for stormwater works the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the PCA for approval:
 - I. All parts of the major central open drain cross section shall be appropriately stabilised post-construction. A rock filled channel shall be constructed along the invert of the major central open drain, to contain low flow events up to the Q3 month event (deemed to be 40% of the Q1 storm). The drainage channel shall be constructed to provide continuity of flow from the major central open drain to Cobaki Creek and shall be landscaped in accordance with the relevant approved plans.
 - II. Dimensions and materials for the rock lined channel and the connecting low flow channel through to Cobaki Creek shall demonstrate adequate capacity and maintainability, to Council's satisfaction.
 - III. The invert of the rock lined channel must remain at or above standing ground water level at all chainages. Lateral sub-soil drains discharging to the rock lined channel shall be provided at maximum 50m intervals and as required to provide a generally dry and maintainable drain cross section.
 - IV. Provision of transverse drainage structures and flood mitigation structures (floodgates and floodway culverts).

Note: Details of bio-retention basins in adjoining precincts, including design verification by way of MUSIC modelling (or equivalent), shall be provided with all future precinct applications. The major central open drain must not be used as a treatment device in such modelling for Cobaki Estate.

Note 2: The proponent shall ensure that sufficient space is available within the central open space area to ensure adequate capacity is present to convey all stormwater from the Cobaki Estate as each development precinct proceeds.

Note 3: Detailed stormwater plans will be submitted with each future application for precinct development and information requirements are set out in the Cobaki Estate Concept Approval (06_0316). Such plans will also include measures, monitoring and adaptive management actions to ensure appropriate stormwater quality outcomes are achieved.

17. Water and Sewer Infrastructure

- a. Design and construction of the water main and sewer rising mains proposed along Cobaki Parkway to Cobaki Creek Bridge must be subject to separate construction certificate approval by Council and shall be generally in accordance with the following plan prepared by Yeats Consulting Engineers:

YC0229-1P1-TP01	B	Temporary Water and Sewer Rising Main Plan	17 September 2010
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- b. The design of these services shall take into account soil settlement and geotechnical issues in those areas.

Note: The proponent shall ensure that the water main and sewer rising mains proposed along Cobaki Parkway to Cobaki Creek Bridge are in place prior to the release of the first residential lots (or other land uses that require their operation).

- c. The proponent shall demonstrate that timing of construction of the water main and sewer rising mains proposed along Cobaki Parkway to Cobaki Creek Bridge is coordinated with preload for all other roadways and structures in this corridor, to the satisfaction of Council.
- d. The water main and sewer rising mains proposed along Cobaki Parkway to Cobaki Creek Bridge must be designed to ensure their integrity is sustained during flood events, particularly through the floodway section, and in the embankment between the culverts and Cobaki Creek Bridge.

18. Flooding

- a. The proponent shall engage a suitably qualified and experienced professional to prepare a Flood Risk Assessment, demonstrating that flows and velocities in the central open space area and drainage systems do not pose public safety risks relevant to the proposed land use within the central open space area. This report shall be submitted to Council for approval prior to endorsement of the relevant construction certificate(s). Where these risks are unacceptable to Council, the proponent shall mitigate the risk by altering the design of the drainage infrastructure, or by providing adequate safety measures.
- b. The proponent shall submit a staging plan for the road forming works across the saltmarsh area in conjunction with the bulk earthworks (pre-loading) construction certificate. This plan shall demonstrate how pre-loading activities can occur without creating significant adverse flood impacts, and how flood mitigation structures (flood culverts) will be constructed to account for predicted settlement.

19. Roadworks

- a. Roadworks authorised under this approval are limited to bulk earthworks only to establish road formations/embankments for those sections of Cobaki Parkway and Sandy Road within the central open space area.

Note: Detailed road design (including pavement, signage, street furniture etc.) will be the subject of separate application. Typical X-sections are included within the plans for this approval to provide an indication of likely road embankment profile.

- b. The proponent shall ensure that adequate provision is made for an all-weather vehicular access track for maintenance purposes on both sides of the major central open drain. This track shall include access provisions either via the northern section of Sandy Road or the southern section of Sandy Road where it crosses the central open space area. This access (or alternative access) must be provided to the satisfaction of Council.
- c. The proponent shall ensure that provision is made for an all-weather vehicular access track for maintenance purposes along one side of each minor open drain, including the open drain (Dunn's Drain) connecting the major central open drain to Cobaki Creek, to the satisfaction of Council.

Contaminated Land

20. Certification of Remediation Works

The proponent shall provide certification that remediation of the cattle dip site has been satisfactorily completed in accordance with the approved DA K99/1124 (approved by Tweed Shire Council on 21 July 2000). The certification shall be in the form of a Site Audit Statement (SAS) completed by a NSW EPA Accredited Site Auditor in accordance with the provisions of the *Contaminated Land Management Act 1997*. The SAS shall be submitted to Council prior to the dedication of land containing the approved remediation works.

Bulk Earthworks

21. Certification

Proposed earthworks shall be carried out in accordance with AS 3798, *Guidelines on Earthworks for Commercial and Residential Developments*.

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the earthworks comply with AS3798 and that the development is suitable for its intended use shall be submitted to the PCA upon completion.

22. Cut/Fill Batters

- a. Batter slopes on drainage cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council.
- b. Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17° (1:3.27) or steeper, such slopes shall be appropriately stabilised and densely planted in accordance with a detailed Landscaping Plan endorsed by Council. This Plan shall be consistent with the approved landscaping plans and environmental management plans referred to in conditions 3 and 4 above for the site and shall accompany the Construction Certificate application.

Such Plans shall generally incorporate the following and be prepared by a suitably qualified person such as a landscape architect:

- I. Contours and terraces where the height exceeds 1m.
- II. Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- III. Densely plant with appropriate species to suit the aspect/micro-climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- IV. Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on site.

23. Minimum Slope

All earthworks shall have a finished grade of at least 1% so that the site drains to approved permanent drainage systems.

24. Earthworks Levels

The proponent shall submit plans to the PCA for approval that clearly show pre and post development levels (spot levels and contours) within the central open space area at a legible scale.

Construction Management

25. Construction Environmental Management Plan

Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) shall be prepared that covers the area of works. The CEMP shall be consistent with the *Guideline for the Preparation of Environmental Management Plans* (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the project during construction.

The CEMP shall include, but not be limited to:

- a. a description of all relevant activities to be undertaken on the site during construction (including an indicative timeline);
- b. a description of relevant environmental management objectives for the site;
- c. details of measures to be installed to separate construction areas from publicly accessible areas;
- d. statutory and other obligations that the Proponent is required to fulfil during construction including all relevant approvals, licences and consultations;
- e. a description of the roles and responsibilities for all relevant employees involved in construction
- f. hours of work (including standard hours of work for the Environmental Officer);
- g. The CEMP shall also be compiled from the documents and plans listed in conditions 3 and 4 (as relevant for construction);
- h. A 24-hour contact telephone number shall be provided to all adjoining owners and occupants;

Note: the nominated telephone number may contain provision for a voice message service outside of normal working hours.

A subset of the following management plans:

- i. traffic and pedestrian management;
- j. noise and vibration management;
- k. construction waste management (including the proposed method and location of excess spoil from bulk earthworks);
- l. erosion and sediment control for the entire Cobaki Estate;
- m. dust management;
- n. groundwater and acid sulfate soil management;
- o. aboriginal cultural heritage management;
- p. protection of trees and vegetation to be retained; and
- q. flora and fauna management during construction.

Note: other conditions in this approval may specify relevant objectives or requirements for or in addition to any of the matters listed directly above.

The CEMP shall be submitted for the approval of the PCA no later than one month prior to the commencement of construction, or within such period otherwise agreed by the Director-General. Notwithstanding, where construction work is to be undertaken in stages, the Proponent may, subject to the agreement of the Director-General, stage the submission of the CEMP consistent with the staging of activities relating to that work. The proponent shall also forward copy of the CEMP to the Director-General and Council for information. Construction shall not commence until written approval has been received from PCA.

26. Environmental Officer

- a. An appropriately qualified Environmental Officer(s), that is to receive the prior approval of the Director-General, shall be engaged by the proponent for the duration of the construction works as detailed in the approved CEMP. Their role shall be to oversee environmental compliance of the project until completion conditions have been satisfied.
- b. The Environmental Officer shall also act as a liaison officer to consult with potentially affected property owners before and during construction works.
- c. The Environmental Officer shall submit a compliance report to the Director-General for information at the completion of each earthworks stage detailing the project's compliance with relevant conditions, management plans and progress on-site. This report shall be submitted within 3 weeks of the completion of each stage until the works authorised under this approval are complete.

27. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan shall be prepared that will achieve the objectives set out for erosion and sediment management on-site specified elsewhere in this approval. Notwithstanding, the Erosion and Sediment Control Plan shall be generally consistent with Council's *Development Design Specification D7 – Stormwater Quality Version 1.3*, and its Annexure A - *Code of Practice for Soil and Water Management on Construction Works*.

28. Construction Traffic & Pedestrian Management Plan

A Construction Traffic and Pedestrian Management Plan in accordance with AS1742 and RTA's publication *Traffic Control at Works Sites Version 2* shall be prepared by an RTA accredited person(s), and shall be submitted for approval as part of the CEMP. The Plan shall address, but not be limited to, the following matters:

- a. ingress and egress of vehicles to the site and details of how construction of project infrastructure will be managed in proximity to local and regional roads;
- b. loading and unloading, including construction zones;
- c. predicted traffic volumes and measures to ensure traffic volume, acoustic and amenity impacts along construction vehicle routes are minimised;
- d. types and routes including traffic routes for heavy vehicles, and any necessary route or timing restrictions for oversized loads;
- e. pedestrian and traffic management methods (including site security);
- f. Washing facilities for trucks on the site (including a vehicle shakedown area);
- g. Hours of access to the site; and
- h. evidence that all statutory responsibilities with regard to road traffic impacts have been complied with.

This Plan shall be incorporated into the overall CEMP.

29. Noise and Vibration Management Plan

A Noise and Vibration Management Plan to detail measures to minimise noise emissions associated with the construction of the project shall be submitted for approval as part of the CEMP. This plan shall be prepared in accordance with the *Interim Construction Noise Guidelines* (DECC, July 2009) and shall include, but not necessarily be limited to:

- a. identification of all major sources of noise that may be emitted as a result of the construction of the project;
- b. identification of nearby residents and other sensitive land uses;
- c. specification of appropriate noise and vibration criteria as it applies to a particular activity;

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- d. identification and implementation of best practice management techniques for minimisation of noise and vibration emissions;
 - e. procedures for the monitoring of noise emissions and vibrations; and
 - f. a description of the procedures to be undertaken if any non-compliance is detected.

30. Acid Sulfate Soil Management Plan

- a. In order to ensure the protection of groundwater quality and the water quality of Cobaki Creek and Broadwater, an updated Acid Sulfate Soil Management Plan (ASSMP) for the site shall be prepared. The updated plan shall include all areas on-site subject to earthworks where Acid Sulfate Soils or Potential Acid Sulfate Soils are likely to be intercepted, including the saltmarsh area.
- b. The ASSMP must be carried out generally in accordance with the NSW State Government's *Acid Sulfate Soils Manual* (ASSMAC 1998) by a suitably qualified person and be consistent with the requirements for ASS and groundwater defined in Condition C5 of the Cobaki Estate Concept Plan approval (06_0316)
- c. The updated ASSMP shall be submitted to the satisfaction of the PCA prior to the issue of the relevant Construction Certificate.

31. Groundwater Management and Monitoring Plan

Where interception or use of groundwater is likely, the proponent is to submit a detailed *Groundwater Management and Monitoring Plan*, prepared in consultation with NSW Office of Water, supported by baseline groundwater monitoring, for the approval of Tweed Shire Council prior to the issue of a construction certificate for works commencing in the affected area.

32. Aboriginal Cultural Heritage Management Plan

The proponent shall ensure that management of Aboriginal Cultural Heritage is undertaken in a manner consistent with the *Final Cobaki Lakes Cultural Heritage Management Plan* prepared by Everick Consultants P/L, April 2010 and approved as part of the Cobaki Estate Concept Plan (06_0316). The proponent shall ensure that a copy of this plan is supplied with the final CEMP.

PRIOR TO COMMENCEMENT OF WORKS

Note: All relevant Terms of Approval of the Cobaki Estate Concept Plan (06_0316) approved by the Minister on 2 December 2010, must be satisfactorily completed prior to civil or bulk earthworks works commencing within areas of the central open space that would be potentially affected.

Note 2: Condition B1 and C4(5) of the Terms of Approval of the Cobaki Estate Concept Plan (06_0316) require the preparation of a Flora and Fauna Monitoring Report prior to works commencing in affected areas (including the central open space area).

Note 3: The project affects Crown public roads 20.115 wide adjoining Lots 1 DP570076 and Lots 54 and 55 DP755740, parish Terranora, county Rous, at Cobaki Lakes in Tweed Shire Council. Approval has been obtained from the Land and Property Management Authority for works in these areas subject to the proponent being kept indemnified against all claims arising out of the use or occupation of the land in respect of the proposed development.

33. Notification

- a. Adjoining and affected residents shall be provided with a minimum 72 hours notice prior to the commencement of works.
- b. The approval authority, PCA and Council shall be given written notice, at least 48 hours prior to the commencement of all works on the site for the project.
- c. The PCA is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the PCA via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.

34. Nomination of Certifiers

Any work undertaken as part of this approval must not be commenced until the person having the benefit of the approval:

- (i) has appointed a PCA,
- (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) accredited in accordance with *Tweed Shire Council DCP Part A5 – Subdivision Manual, Appendix C* with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance
C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to approval and issue of any Construction Certificate, and

- (iii) has notified the Council of the relevant appointments.

35. Public Liability Insurance

The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

36. Erosion and Sediment Controls

Prior to commencement of any works on-site for each stage of the project, all erosion and sediment control measures are to be installed and operational to the satisfaction of the PCA.

37. Aboriginal Cultural Heritage Induction Training

All personnel involved in initial ground surface disturbance activities shall undergo a Cultural Heritage Induction training session before commencing any construction activities. The Induction should be presented by an appropriately qualified person and provide specific information in relation to the processes to be followed should any Indigenous items be uncovered as well as the types of and identification criteria for cultural heritage material that may be uncovered. Notwithstanding the above, the induction shall be undertaken in accordance with the terms and requirements of the *Final Cobaki Lakes Cultural Heritage Management Plan* prepared by Everick Consultants P/L, April 2010 and approved as part of the Cobaki Estate Concept Plan (06_0316).

38. Biodiversity Offsets

- (1) No works shall be undertaken within the central open space area that may impact upon (or contribute to an impact upon) the freshwater wetlands and associated Wallum Froglet habitat area until an appropriate agreement is entered into between the Proponent and the DECCW that offsets the project's impacts on biodiversity. This agreement shall include provision for alternative offsets to be delivered should monitoring indicate that an appropriate wetland environment is not achieved after an appropriate time. Evidence of such an agreement shall be forwarded to the Director-General no later than 5 working days prior to works commencing in those areas.
- (2) Notwithstanding the above, the proponent shall prepare a detailed Wallum Froglet Compensatory Habitat Plan as per section 4.3 of the *Revised Freshwater Wetland Rehabilitation Plan* prepared by James Warren and Associates, dated October 2010. In addition to these requirements, the Wallum Froglet Compensatory Habitat Plan must include the following information on the core breeding habitat areas:
 - (i) Detail on how Wallum Froglet core breeding habitat will be constructed and maintained;
 - (ii) Detail on the design of fauna crossings where the fauna corridor is bisected by a road to ensure Wallum Froglet movement between core breeding habitat ponds is available;
 - (iii) How threats to the survival of Wallum Froglet will be managed;
 - (iv) Monitoring and reporting requirements including monitoring of Wallum Froglet usage of the core breeding habitat area, usage of fauna corridors, Wallum Froglet population size and breeding success, water quality, habitat suitability and presence of exotic species (particularly Cane Toads and Gambusia);
 - (v) A mechanism for on-going funding of this Wallum Froglet Habitat areas to ensure the long-term viability of the population; and
 - (vi) A contingency planning option in the case of system failure.

Note: Statement of Commitments 4.8 of the Cobaki Estate Concept Plan (06_0316) commits the proponent to ensuring environmental offsets are provided for impacts on freshwater wetlands and associated Wallum Froglet habitat, from approved bushfire hazard reduction works in native vegetation areas, and on existing trees within the Scribbly Gum Reserve (should any impacts occur). The bushfire hazard reduction works and scribbly gum community are outside the central open space area the subject of this application.

Note 2: This condition is only intended to restrict works in those environmentally sensitive areas already defined in the Cobaki Estate Concept Plan (06_0316).

Note 3: Condition B1 of the concept plan approval requires the preparation of a detailed Fauna Monitoring Report by 10 December 2011, or as otherwise agreed by the Department. This includes monitoring of the Wallum Frog species. This plan must bring together all monitoring and reporting requirements on-site relating to flora and fauna.

39. Wallum Froglet Populations

The proponent must design, construct, operate and maintain the project to ensure that it does not adversely affect any Wallum Froglet Populations on, or adjacent to the site.

DURING WORKS

40. Construction Management

Notwithstanding any conditions in this approval, all works are to comply with the appropriate Australian Standards, the approved CEMP, and any WorkCover NSW requirements.

41. Earthworks - Limits of Approval

Unless approved sources of fill material are identified in the approved CEMP or approved bulk earthworks construction certificates(s), no bulk earthworks are to be undertaken outside of the central open space area identified in the approved plans.

Note: Fill material required for the Central Open Space area sourced from elsewhere on the site shall be identified in the CEMP and may be subject to separate earthworks approvals over those areas.

42. Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

43. Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

- a. Details of the Contractor and PCA;
- b. The approved hours of work;
- c. The name of the site manager and/or liaison officer, the Proponent's name, a 24-hour contact phone number for any inquiries or complaints; and
- d. A statement that unauthorised entry to the site is not permitted.

Erosion And Sediment Management Objectives

44. Erosion and Sediment Control

- a. All erosion and sediment control measures shall be appropriately sized to cater for the contributing runoff catchment.
- b. All erosion and sediment control measures are to be effectively implemented and maintained at or above design capacity for the duration of the construction works, and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- c. All activities on the site shall be undertaken with the objective of preventing discharge of sediment and other pollutants to lands and/or waters (the receiving environment) during construction activities. In particular the proponent shall ensure all practicable measures are taken to prevent contaminated stormwater from adversely affecting the water quality of Cobaki Creek and Cobaki Broadwater.
- d. Any seepage or stormwater collected on-site during construction shall not be pumped to the street stormwater system unless separate, prior approval is given in writing by Council.
- e. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Council.

45. *Stabilisation of Bulk Earthworks*

The proponent shall ensure that each completed stage of bulk earthworks is progressively and appropriately stabilised to ensure the specified erosion and sediment control objectives are met.

46. *Erosion and Sediment Control Monitoring*

- a. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion and sediment control measures are in place and in good condition both during and after construction.
- b. Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.
- c. This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

47. *Dust Control Measures*

All activities on the site shall be undertaken with the objective of preventing visible emissions of dust from leaving the site, including traffic-generated dust. Should such visible dust emissions occur at any time, the proponent shall identify and implement all practicable dust mitigation measures, including cessation of relevant works, as appropriate, such that emissions of visible dust cease. Adequate measures shall be taken to prevent dust from reducing the air quality and affecting the amenity of the neighbourhood during construction related activities.

48. *Damage to Property and Roads*

Any damage to property is to be rectified to the satisfaction of Council prior to the issue of the relevant compliance certificates issued for the project. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the proponent's expense and any such costs are prior to the issue of a Subdivision Certificate, or prior to issue of a construction certificate for any future residential precinct.

Noise And Vibration Management

49. *Hours of Work*

The hours of construction for the project, including the delivery of materials to and from the site, shall be restricted as follows:

- a. between 7:00 am and 5:00 pm, Mondays to Saturdays inclusive;
- b. no work is to be undertaken on Sundays and public holidays.

Works may be undertaken outside these hours where:

- c. the delivery of materials is required outside these hours by the Police or other authorities;
- d. it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- e. the work is approved through the CEMP; and
- f. residents likely to be affected by the works are notified of the timing and duration of these works as soon as possible.

The proponent is responsible for instructing and controlling contractors and sub-contractors regarding hours of work.

50. Construction Noise Management

The proponent shall undertake all feasible and reasonable work practices to satisfactorily minimise noise emissions from plant and equipment operated on the site in relation to the project.

51. Rock Breaking

The Proponent shall:

- a. schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the CEMP:
 - I. 9.00 am to 12.00 pm, Monday to Saturday;
 - II. 2.00 pm to 5.00 pm Monday to Saturday; and
- b. ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the CEMP.

52. Vibration Criteria

- a. Vibration resulting from construction of the project must not exceed the evaluation criteria presented in the *Environmental Noise Management – Assessing Vibration: A Technical Guide* (DEC, 2006).
- b. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building, structure or other sensitive land use is strictly prohibited.

Note: The use of crushing plant machinery, mechanical screening or mechanical blending of materials on site is not permitted under this approval and will be subject to separate precinct development applications

53. Council Inspections

Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with *Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual*, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Final inspections - on maintenance
- (d) Off Maintenance inspection

Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Backfilling
- (e) Permanent erosion and sedimentation control measures
- (f) Drainage channels
- (g) Final inspection - on maintenance
- (h) Off maintenance

Note: Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Proponent's Supervising Consulting Engineer.

Heritage Management

54. Aboriginal Cultural Heritage Management Plan

Notwithstanding any other conditions in this approval, the management of Aboriginal cultural heritage shall be undertaken generally in accordance with the methodologies and recommendations of *Final Cobaki Lakes Cultural Heritage Management Plan* prepared by Everick Consultants P/L, April 2010 and approved as part of the Cobaki Estate Concept Plan (06_0316).

55. Aboriginal Cultural Heritage

Should any future works associated with the site uncover evidence of any unexpected Aboriginal archaeological site or relic, all work likely to affect that site or relic must cease immediately. Temporary fencing must be erected around the find and the material must be identified by an independent and appropriately qualified archaeologist. The DECCW must be notified as soon as possible who will then advise of the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of DECCW.

Note: The provisions of the *National Parks and Wildlife Act 1974* (as amended) state that it is illegal to damage, deface or destroy a relic without written permission of the Director of the Service. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the *National Parks and Wildlife Act 1974*, as amended.

56. Finding of Human Remains

If human remains are located during the project, all works must halt in the vicinity of the find must cease immediately in order to prevent any further impact on the find. The NSW Police and DECCW are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the NSW Police consider the site not an investigation site for criminal activities, then works shall not recommence in the vicinity of the find until written consent is granted from the DECCW. In the event that a criminal investigation ensues, works shall not recommence in the vicinity of the find until written consent is granted from the NSW Police.

COMPLETION OF WORKS

57. Part 4A Certificates

Upon completion of works approved under this approval, a Part 4A Compliance Certificate or Certificates shall be obtained under section 109D(1)(a) of the Act for the following:

Bulk Earthworks

- a. Compliance Certificate – Bulk Earthworks

Civil Works

- b. Compliance Certificate – Road forming works
- c. Compliance Certificate – Drainage
- d. Compliance Certificate – Stormwater
- e. Compliance Certificate – Trunk Infrastructure / Services (electricity, gas, water, telecommunications and sewer) where applicable.

Note: All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the approval, the construction certificate, *Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual* and Councils relevant Development Design and Construction Specifications unless otherwise altered by the Cobaki Estate Development Code.

58. Works as Executed

- a. A Certificate of Compliance shall be submitted to Council by the Proponent's Subdivision Works Accredited Certifier (SWAC) or equivalent, verifying that the placed fill has been compacted in accordance with the requirements of AS 3798, *Guidelines on Earthworks for Commercial and Residential Developments* and is suitable for the intended purposes. This submission shall include copies of all undertaken test results.
- b. All civil works approved with the Construction Certificate(s) are to be completed to the satisfaction of the PCA.
- c. Works as Executed Plans shall be submitted in accordance with the provisions of Council's *Development Control Plan A5 - Subdivisions Manual* and Council's *Development Design and Construction Specification, D13 - Engineering Plans*.
- d. The plans are to be endorsed by a Registered Surveyor or a Consulting Engineer Certifying that:
 - I. all relevant drainage systems, sewer lines, services and structures (as appropriate) are wholly contained within an appropriate easement created by the subdivision;
 - II. the plans accurately reflect the Works as Executed.

Note: Where works are carried out by Council on behalf of the proponent it is the responsibility of the proponent to prepare and submit works-as-executed plans.

59. Required Inspections

- a. Prior to the issue of both a Compliance Certificate and the end of the defects liability period, a CCTV inspection of any stormwater pipes and culverts installed and intended to be dedicated to Council including joints and junctions, will be required to demonstrate that the standard of the infrastructure is acceptable to Council.
- b. Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.
- c. All costs associated with the CCTV inspection and repairs shall be borne by the proponent.

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- d. Prior to the issue of a Compliance Certificate, Council must undertake a final inspection of the works and be satisfied that all relevant conditions of approval have been complied with.

60. Works as Executed

Detailed works as executed plans must be provided for all works completed within the central open space area under this approval.

61. Aboriginal Heritage Information Management System (AHIMS)

The proponent is to provide an updated site card to the DECCW for inclusion in the AHIMS upon completion of works on the site.

62. Damage to Council or Public Authority Assets

- a. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc.) during construction of the project shall be repaired in accordance with Council's adopted Design and Construction Specifications. The proponent shall ensure that these repairs are undertaken in a timely manner specified by Council (or other relevant authority).
- b. The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the site as a result of construction works associated with the approved project, is to be met in full by the Proponent.

63. Defect Liability Bond

- a. Prior to the dedication of any works or land on-site, a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.
- b. The bond shall be based on 5% of the value of the Civil works associated with this Project Application (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period extending 6 months beyond final dedication of land within the central open space area. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within this period.

64. Flood Levels

The Design Flood Level Map shall be updated to include Works As Executed levels for Bulk Earthworks and any other works that may affect flood behaviour and submitted to Council.

Note: Provision of a Design Flood Level Map is required by condition C9 of the Terms of Approval of the concept Plan for Cobaki Estate (06_0316). Embellishment of structured open space shall be subject to further Part 4 or Part 5 development applications where required, and design criteria including finished ground levels must take into account flood levels, to the satisfaction of the Council.

PART THREE – ENVIRONMENTAL RESTORATION

Environmental Management Plans

65. Saltmarsh Rehabilitation Works

- a. The saltmarsh area shall be appropriately rehabilitated generally in accordance with the provisions of the *Revised Saltmarsh Rehabilitation Plan – Cobaki Estate* (October 2010, prepared by James Warren and Associates) and other relevant plans and documents listed in conditions 3 and 4 of this approval.
- b. Pursuant to the Terms of Approval of the Cobaki Estate concept plan (06_0316), and prior to works commencing in the affected areas, the proponent shall submit to the Director-General for approval a final saltmarsh rehabilitation plan that is to include,, but not be limited to:
 - I. Detailed aims and objectives, and measurable performance and completion criteria tracking success against those aims and objectives (for each stage and overall);
 - II. Detailed planting species list, composition and density for each ecological community and, for endangered ecological communities (EECs), this is to include species composition that is benchmarked against a reference EEC community;
 - III. Details on creek bank erosion management;
 - IV. management of tidal flux and hydrological management
 - V. timing and responsibilities; and
 - VI. developer maintenance period reflecting completion criteria.

This plan shall be prepared in partnership with the scientist required in condition 65e below. A copy of this plan shall also be forwarded to the DECCW, NSW Industry & Investment – Fisheries and Council for their information.

- c. Notwithstanding anything else in this approval, the resulting ecological community must be consistent with the NSW Scientific Committee's classification of Coastal Saltmarsh, or Swamp Oak Floodplain Forest (as applicable), and its classification as an Endangered Ecological Community.
- d. The damaged floodgate at the entrance to Dunn's Drain must be replaced by a fish friendly floodgate allowing regulated tidal inundation into the Saltmarsh Rehabilitation Area. This must be undertaken in accordance with the approved Addendum to the *Revised Saltmarsh Rehabilitation Plan* (James Warren and Associates, October 2010) prior to issue of construction certificate for any saltmarsh works. Additional detail on the design and monitoring and maintenance of the flood gate shall be submitted for referral to and approval by NSW Industry & Investment – Fisheries and Council.
- e. The proponent shall engage (and fully fund) an appropriately qualified scientist (preferably with established expertise in coastal saltmarsh ecology and hydrology), to peer review the detailed plan and guide its development, and periodically monitor, provide advice and review progress with the saltmarsh rehabilitation throughout the duration of works. The nominated scientist must receive the approval of the Director-General prior to engagement by the proponent.

- f. Any adaptive management actions/corrective works required to ensure compliance with condition 65c must be pre-approved by the scientist referred to in condition 65e prior to such works commencing.
- g. The proponent must ensure that whilst undertaking saltmarsh rehabilitation works on-site and in the manner set out in the approved staging plan that no adverse impacts occur on other areas of saltmarsh.

66. Mosquito Management

Cattle shall be permanently removed from the area subject to the saltmarsh rehabilitation plan prior to any works commencing within this area. Cattle shall be removed progressively from those areas of the saltmarsh being rehabilitated at the time and appropriate exclusion arrangements shall be put in place to separate cattle from rehabilitation areas.

Landscape Management

67. Landscaping and Embellishment

- a. Landscaping works within the central open space area shall be generally consistent with the indicative landscape concept set out in the *Cobaki Lakes Central Open Space Landscape Masterplan Report*, dated June 2010, *Tweed Shire Council's DCP 2008 – Section A5 Subdivision Manual*, *Council's Development Design Specification D14 – Landscaping Public Space* and the following plans:

Prepared by Place Design Group Pty Ltd		
Drawing No.	Name of Plan	Date
SK01 - 01	Cobaki Lakes Central Open Space - Landscape Plan	30 June 2010
SK01 – 02	Cobaki Lakes Northern Open Space - Landscape Plan	30 June 2010
SK01 – 03	Cobaki Lakes Central Open Space Corridor - Landscape Plan	30 June 2010
SK01 – 04	Cobaki Lakes Southern Open Space Precinct - Landscape Plan	30 June 2010
SK01 – 05	Cobaki Lakes Pedestrian Connectivity Plan	30 June 2010
SK01 – 06	Cobaki Lakes Central Open Space – Land Use Areas	27 October 2010
SK01 – 07	Cobaki Lakes Open Space Interfaces Plan	30 June 2010
-	Cobaki Lakes Indicative Plant Palette	30 June 2010
-	Cobaki Lakes Indicative Imagery – Central Open Space Corridor	30 June 2010
-	Cobaki Lakes Indicative Imagery – Esplanade Road Edge	30 June 2010
-	Cobaki Lakes Statement of Landscape Intent	30 June 2010

- b. The indicative landscape concept identified in the *Cobaki Lakes Central Open Space Landscape Masterplan Report*, dated June 2010 shall be constructed and dedicated to Council in stages as development occurs on adjacent development precincts. The development precincts referred to shall be those identified in the Cobaki Estate Concept Plan (06_0316).

Note: No physical landscape works (aside from stabilisation works) are authorised under this approval.

Note 2: Preliminary landscape plans for the progressive stages of the central open space area will be submitted with all future development applications/ project applications for all development precincts approved by the Concept Plan for Cobaki Estate (06_0316). All detailed landscape plans will require approval from Council prior to the issue of construction certificate for each precinct. New allotments will be created to allow parts of the central open space area to be dedicated to Council as surrounding development precincts are constructed.

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- c. The proponent shall ensure that the objectives and implementation of the landscaping and embellishment programme do not impact upon the higher order objectives of other environmental management plans authorised under this approval.
 - d. Notwithstanding anything else in this approval landscaping within the central drainage channel area shall ensure the channel is appropriately rock lined, includes meanders, boulder placement, ponds and riffles, and fringing native vegetation in order to give the channel the appearance of a natural watercourse and provide aquatic habitat for native species.

68. Site Regeneration and Revegetation

Detailed regeneration and revegetation plans shall be prepared for each of the Rehabilitation and Management Precincts impacted upon by works approved under this project as detailed in the *Revised Site Regeneration and Revegetation Plan* (SRRP), prepared by James Warren and Associates and dated October 2010. These plans shall be submitted to, and approved by, the Director-General prior to works commencing in those areas.

These detailed plans for each Rehabilitation and Management Precinct are to be consistent with the SRRP and must include as a minimum:

- a. performance objectives detailing measurable performance and completion criteria (for each stage and overall);
- b. Detailed planting species list, composition and density for each vegetation community and, for endangered ecological communities (EECs) to be rehabilitated, this is to include ground, mid and canopy species and species composition must be benchmarked against an appropriate reference EEC community;
- c. Details on creek bank erosion management;
- d. timing and responsibilities; and
- e. developer maintenance period reflecting completion criteria.

Note: this condition excludes those areas already covered by the Revised Freshwater Wetland Rehabilitation Plan and the Revised Saltmarsh Rehabilitation Plan

ONGOING CONDITIONS

69. Maintenance

The proponent is responsible for all care and maintenance of the central open space area (or relevant parts) the subject of this approval until such period as nominated in the relevant management plans, or as otherwise agreed to by Council.

70. Saltmarsh Rehabilitation Works

- a. At the completion of the rehabilitation period the scientist required by Condition 65e of this approval shall prepare a peer reviewed report that verifies the relative success of the saltmarsh rehabilitation works. This report shall be fully funded by the proponent and is to be submitted to the Director-General for approval. If the final report is deemed to be unsatisfactory, the proponent shall undertake such actions as are necessary to remedy the issue. A copy of the report is to be provided to the DECCW, NSW Industry & Investment – Fisheries and Council.
- b. Annual monitoring reports required by section 8.5 of the Revised Saltmarsh Rehabilitation Plan shall be forwarded to the Director-General by 31 January of the following year.
- c. Upon the Director-General's confirmation that successful completion of the saltmarsh rehabilitation has occurred, or as otherwise agreed to by the Director-General, the proponent shall make suitable arrangements to dedicate Lots 805 and 806 to Council to be managed in perpetuity for ecological conservation purposes.

71. Environmental Management Plans

- a. The proponent shall undertake all actions, monitoring and reporting in accordance with all recommendations of the approved management plans (including the Revised Saltmarsh Rehabilitation Plan, the Revised Freshwater Wetland Rehabilitation Plan, the Revised Site Regeneration and Revegetation Plan, and the Biting Midge and Mosquito Control Plan), within the timeframes specified in those plans.
- b. Upon completion of each of the relevant monitoring and reporting programmes for the following plans:
 - Revised Saltmarsh Rehabilitation Plan;
 - Revised Freshwater Wetland Rehabilitation Plan;
 - Revised Site Regeneration and Revegetation Plan; and
 - Biting Midge and Mosquito Control Plan

The proponent shall submit a final monitoring report assessing the success of the approved against their respective objectives and performance criteria to the Director-General for approval. If the final report is deemed to be unsatisfactory, the proponent shall undertake such actions as are necessary to remedy the issue.

- c. Upon or before approval by the Director-General of successful completion (in respect of each relevant parcel of land) of the associated environmental rehabilitation works authorised under this approval, the proponent shall either:
 - Conclude an agreement with Council for the dedication of that parcel of land to Council, or
 - If a part of the land is to remain in private ownership make suitable arrangements to ensure such land (or part thereof) is set aside and appropriately managed in perpetuity by its owner.

ADVISORY NOTES

AN1 Compliance Certificate - Water Management Act 2000

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the approval authority showing that the project has met with the detailed requirements of the relevant water supply authority for the region that the site is located within.

The Proponent shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the PCA before release of the Construction Certificate,
- (2) the approval authority before the release of the Subdivision Certificate, and
- (3) the PCA prior to occupation.

AN2 Water Licensing

All surface and groundwater takes on-site must be authorised under and in adherence to relevant NSW water legislation and regulations.

- (1) the proponent must ensure all groundwater monitoring bores are licensed with the NSW Office of Water (NOW). All Form A's associated with the construction of those bores must be submitted to NOW at the time the drilling is undertaken. Where existing unauthorised bores have been constructed, the proponent must formally advise NOW prior to the commencement of the project.
- (2) All water licenses must be obtained prior to works on site commencing.
- (3) for areas on-site that require dewatering, a water license under Part 5 of the Water Act 1912 must be obtained prior to commencement of work. The water license application must be accompanied by a groundwater management plan developed to the satisfaction of NOW.
- (4) All works that intersect the aquifer must be licensed by NOW prior to any works being carried out. This includes but is not limited to – monitoring bores, open drains, groundwater excavations for wells, spear points and bores.

AN3 Roads Act 1993

Separate approval(s) may be required for works proposed in, on or under a public road. It is the proponent's responsibility to ensure that such permits are obtained from the relevant authority if required.

AN4 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Country Energy, Telstra Australia, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN5 Stormwater drainage works or effluent systems

A Construction Certificate for works that involve any of the following:

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- (1) water supply, sewerage and stormwater drainage work (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
 - (2) management of waste.

as defined by Section 68 of the *Local Government Act 1993* will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN6 Compliance with Building Code of Australia

The Proponent is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN7 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act 1979*. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponent's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

08_0200

CENTRAL OPEN SPACE AND RIPARIAN CORRIDOR

COBAKI ESTATE

STATEMENT OF COMMITMENTS

(Source: Addendum to Preferred Project Report, JBA planning, October 2010)

STATEMENT OF COMMITMENTS

Project Component	Environmental Outcome	Measure	Timing for Completion
1. Stormwater and flood management	Stormwater management structures are maintained. Flood protection is provided in the design of the development.	Stormwater management structures are to be maintained in accordance with the Stormwater Quality Concept Plan (Yeats September 2010)	As part of infrastructure works for each stage of development in the central open space and riparian corridor.
		Development will be carried out in accordance with the Revised Local Flooding and Flood Impact Assessment (Gilbert & Sutherland July 2010) and measures required by Tweed Shire Council.	As part of infrastructure works for each stage of development in the central open space and riparian corridor.
2. Groundwater	Groundwater levels and quality are maintained.	The measures for monitoring and managing groundwater in the Groundwater Management Plan (Gilbert & Sutherland April 2008) are to be implemented.	As part of infrastructure works for each stage of development in the central open space and riparian corridor.
3. Native vegetation	Native vegetation is rehabilitated and maintained.	Native vegetation is to be rehabilitated and maintained in accordance with the Revised Site Regeneration and Revegetation Plan (James Warren & Associates October 2010) and Vegetation Management Plan (James Warren & Associates 2009d)	Rehabilitation works will commence prior to registration of a plan of subdivision for residential development of adjacent land, and be completed in accordance with the Revised Site Regeneration and Revegetation Plan until the land is dedicated to Tweed Shire Council.
4. Freshwater wetlands	Freshwater wetlands are maintained.	Wetlands are to be maintained in accordance with the Revised Freshwater Wetland Rehabilitation Plan (James Warren & Associates October 2010)	Rehabilitation works will commence prior to registration of a plan of subdivision for residential development of adjacent land, and be completed in accordance with the Revised Freshwater Wetland Rehabilitation Plan until the land is dedicated to Tweed Shire Council.
5. Saltmarsh	Saltmarsh is rehabilitated and maintained.	Saltmarsh is to be rehabilitated and maintained in accordance with the Revised Saltmarsh Rehabilitation Plan (James Warren & Associates October 2010)	Rehabilitation works will commence prior to registration of any plan of subdivision for residential development at Cobaki Estate, and be completed in accordance with the Revised Saltmarsh Rehabilitation Plan until the land is dedicated to Tweed Shire Council.

STATEMENT OF COMMITMENTS

Project Component	Environmental Outcome	Measure	Timing for Completion
		A drainage easement on title shall be provided through the saltmarsh area in accordance with the Revised Saltmarsh Rehabilitation Plan dated October 2010.	Registration of plan of subdivision for central open space and riparian corridor.
6. Biting Midges and Mosquitoes	Biting midge and mosquito habitat is managed to reduce populations.	Biting midge and mosquito habitat is to be managed in accordance with the Biting Midge and Mosquito Control Plan (Mosquito Consulting Services May 2008)	The implementation of the Biting Midge and Mosquito Control Plan will commence and be completed in conjunction with the rehabilitation works in the Revised Saltmarsh Rehabilitation Plan above.
7. Fauna management	Potential impacts on threatened fauna are managed and mitigated.	The provisions of the Fauna Management Plan, Cobaki Lakes, Preferred Project Report (James Warren & Associates, 2009e) and the SEPP 44 Assessment, Cobaki Lakes - Preferred Project Report (James Warren & Associates, 2009h) will be implemented.	As part of relevant stages of works.
8. Site Remediation	The abandoned cattle dip site is remediated.	The abandoned cattle dip is to be remediated in accordance with the approved Remediation Action Plan, and issued with a Site Audit Statement from an accredited auditor.	Prior to registration of any plan of subdivision for residential development at Cobaki Estate.
9. Acid Sulfate Soils Management	Acid sulphate soils are managed without harmful effects on the environment.	The ASS Management Plan at Appendix H of the Environmental Assessment Report for this Project Application will be implemented.	As part of earthworks.
10. Geotechnical Stability	Geotechnical conditions are stable.	The Broadscale Geotechnical Investigation - Cobaki Lakes (Cardno Bowler, February 2010) will be implemented to support earthworks, civil construction and building work.	As part of earthworks.
11. Heritage conservation	Aboriginal cultural heritage on the site is appropriately conserved.	The requirements of the Cultural Heritage Management Plan (CHMP) (Everick, April 2010) will be implemented in relevant areas.	As part of all works.
12. Construction Management	Construction impacts are managed and mitigated.	A Construction Management Plan (CMP) will be prepared and implemented to manage the proposed methods and impacts of construction described in the EAR.	CMP will be prepared prior to commencement of works the subject of this application, and implemented throughout the construction works.