

+ MODIFICATION REPORT - PROJECT APPROVAL NO. 08_0200

SOUTHERN SPECIAL PURPOSE PRECINCT FILL AREA AND EXTENSION TO THE PRECINCT 9 BORROW AREA
- PROJECT APPROVAL FOR CENTRAL OPEN SPACE

Sandy Lane, Cobaki Lakes

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COBAKI ESTATE SANDY LANE, COBAKI LAKES**

1.0 INTRODUCTION

Leda Manorstead Pty Ltd (the owner of the land) has commissioned Darryl Anderson Consulting Pty Ltd to prepare an application for modification of Project Approval No. 08_0200, which relates to the Central Open Space area of the residential development located in the Tweed Shire Local Government Area, known as the Cobaki Estate.

The proposed modification relates to the inclusion of a bulk earthworks fill area located within the part of the site known as the Southern Special Purpose Precinct (SSPP). To provide the required fill material to be placed in the SSPP, an extension to the Precinct 9 Borrow Area is required.

The reasons for including the fill areas is related to the geotechnical stability and heaving effects related with the placing of fill on the Cobaki Parkway missing link area in accordance with Project Approval No. 08_0200.

2.0 PROJECT APPROVAL

On 28 February 2011 the then Minister for Planning granted Project Approval No. 08_0200 for the carrying out of:

- ♦ 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 area, 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).

A copy of the Project Approval is contained at **Annexure A**.

The subject Project Approval was granted pursuant to the Cobaki Concept Approval No. 06_0316. The subject site to which the Approval relates is the Cobaki Estate described as Lot 1 DP 570076, Lot 2 DP 566529, Lot 1 DP 562222, 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.

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On 29 May 2013 the Minister's delegate granted Modification (Mod) 1 to Project Approval No. 08_0200. Mod 1 included an amendment to biodiversity offsetting arrangements, minor amendments to the Cobaki Estate Development Code, amendments to Concept Plan terms of approval regarding Bushfire Management and Environmental Management Plans and approval of bulk earthworks in Precincts 1 and 2 for the winning of fill for construction of the central open space area. A copy of Mod 1 to the Project Approval is provided as **Annexure B**.

On 3 April 2014, the Minister's delegate granted Mod 2 to Project Approval No. 08_0200. Mod 2 which included an amendment to win fill material from Precincts 9 and 11 to be utilised in the Central Open Space area. A copy of Mod 2 to the Project Approval is provided as **Annexure C**.

Details of the modifications proposed as part of this application, including a description of the proposed modifications, are contained in **Section 4.0** of this Report.

3.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS

Schedule 6A, Clause 3 of the Act relates to Continuation of Part 3A—transitional Part 3A provisions states that Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project.

Section 75W (as in force immediately before the repeal of that Part) facilitates the lodgement and determination of an application to modify a Part 3A approval. Section 75W is in the following terms:

"Modification of Minister's approval

75W

(1) *In this section:*

Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.

Modification of approval means changing the terms of a Minister's approval, including:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
 - (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.
- (2) *The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*
- (3) *The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.*
- (4) *The Minister may modify the approval (with or without conditions) or disapprove of the modification.*

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- (5) The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request with 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.
- (6) Subsection (5) does not apply to a request to modify:
(a) an approval granted by or as directed by the Court on appeal, or
(b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.
- (7) This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."

There are no regulations of relevance to a Modification Application.

4.0 PROPOSED MODIFICATIONS

4.1 Description the Proposed Modification

The location of the SSPP and the proposed extension to the Precinct 9 Borrow Area are shown on Figure 1.

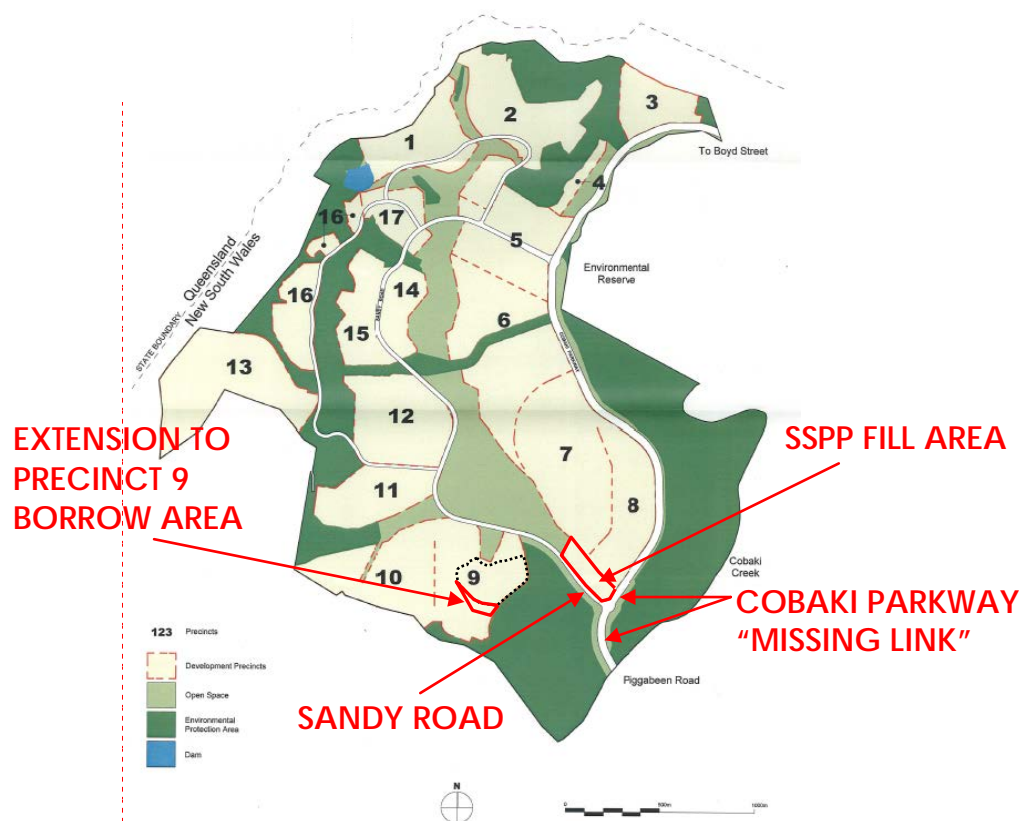


Figure 1 – Location of SSPP Fill Area and the Extension to the Precinct 9 Borrow Area

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Under the current terms of the Project Approval the construction of the bulk earthworks, including road forming work across the salt marsh area associated with the Cobaki Parkway "missing link" and Sandy Road, is to occur separately to the filling and preloading of the SSPP.

The SSPP is adjacent to the proposed Cobaki Parkway "missing link" and Sandy Road formations. The site of the roads and the SSPP are both affected by deep "soft" marine clay sub surface soil conditions. Due to these soft soil conditions, geotechnical issues associated with differential settlement between the two areas will arise if they are completed independently of each other. The later filling and preloading of the SSPP would be likely to create a heaving and slumping effect, which would create unacceptable impacts and damage to the adjacent road formations and infrastructure to be placed therein. Concurrent filling and preloading of the road formations and the SSPP will assist in preventing this.

Accordingly, a modification of the Cobaki Estate Central Open Space Project Approval is required to include placement of fill material in the SSPP so that this work may be undertaken concurrently with the filling and preloading of the adjoining road forming work. The material to be placed in the SSPP area is proposed to be sourced from an expansion of the Precinct 9 Borrow Area.

The measured "in place" volume to fill the SSPP site in accordance with the extent of fill as shown on Sedgman Yeats drawing YC0229-1E1-EW02 Rev F is 131,000m³. Additional allowance needs to be made for both compaction losses and settlement of the fill due to the anticipated consolidation of the underlying marine clay layers under load.

A compaction allowance of 15% means that an additional 19,650m³ of fill will be required, while a uniform settlement allowance of 800mm across the fill zone means that a further 30,000m³ of fill will be required. Therefore the total volume of fill to be excavated from the borrow area in Precinct 9 is 180,650m³. The design of the extension to the Precinct 9 borrow area ensures that this volume will be available to fill the SSPP.

Plans, sections and erosion and sedimentation control details of the proposed expansion of the Precinct 9 Borrow Area are attached as **Annexure D**. A Survey Plan of the SSPP area is attached as **Annexure E**.

Modifications are required to the Central Open Space Project Approval in order to formally include the filling of the SSPP and expansion of the Precinct 9 Borrow Area.

The proposed modifications relate to Conditions of the Project Approval as further described in the following subsections of this Report.

4.2 Modification of Condition 3 – Project in Accordance with Plans

Modification to Condition 3 is required to correctly reference and include plans relating to the filling of the SSPP Area and the extension to the Precinct 9 Borrow Area.

The required changes may be given effect by inserting the following additional earthworks drawings into the part of the table entitled "Earthworks Drawings prepared by Yeats Consulting Engineers".

Drawing No	Revision	Name on Plan	Date
YC0229-1E1-D02	H	Index Sheet	30.06.14

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Drawing No	Revision	Name on Plan	Date
YC0229-1E1-D03	G	Scope of Works & Key Sheet Plan	30.06.14
YC0229-1E1-EC01	H	Bulk Earthworks Cut & Fill Plan Sheet 1 of 2	30.06.14
YC0229-1E1-E01	G	Erosion & Sediment Control Plan Sheet 1 of 2	30.06.14
YC0229-1E1-EW02	F	Bulk Earthworks Layout Plan Sheet 2 of 8	30.06.14
YC0229-1E1-EW13	C	Precinct 9 Borrow Area Earthworks Plan	11.07.14
YC0229-1E1-ES08	D	Precinct 9 Borrow Area Earthworks Sections	11.07.14

4.3 Modification of Condition 4 – Project in Accordance with Documents

A modification to Condition 4 of the Approval is required to reference information relating to the SSPP fill area and the extension to the Precinct 9 Borrow Area. The required changes to Condition 4 are to insert new clauses (m) to (p) below clause (l) as follows:

- m. Modification Report – Project Approval No. 08_0200 prepared by Darryl Anderson Consulting Pty Ltd, July 2014.
- n. Cobaki Estate Development Construction Environmental Management Plan (CEMP) Cobaki Estate – Southern Special Purpose Precinct (SSPP) Bulk Earthworks prepared by SMEC Urban, July 2014.
- o. Cobaki Estate Development Environmental Assessment Report, Southern Special Purpose Precinct (SSPP) Bulk Earthworks - Bulk Earthworks Revision 1 prepared by SMEC Urban, July 2014.
- p. Report on Geotechnical Investigation - Proposed Southern Special Purpose Precinct Cobaki, prepared by Douglas Partners dated May 2014

4.4 Modification of Condition 41 - Earthworks - Limits of Approval

The following modification is proposed to Condition 41. Amendments are shown with new text underlined>.

Delete clause (b) of Condition 41 and replace with new clause (b) as follows:

- b. Notwithstanding a.) above, bulk earthworks may also be carried out in Precincts 1, 2, 9 and 11 for the sole purpose of the winning of fill to be placed in the Central Open Space Area and the SSPP shown on bulk earthworks drawings YC0229-1E1-D02 (Rev H), YC0229-1E1-D03 (Rev G), YC0229-1E1-EC01 (Rev H), YC0229-1E1-E01 (Rev G), YC0229-1E1-EW02 (Rev F), YC0229-1E1-EW13 (Rev C), YC0229-1E1-ES08 (Rev D).

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5.0 ENVIRONMENTAL ASSESSMENT

Modification of the Project Approval as proposed will include the winning of an additional 180,650m³ of material from the Precinct 9 Borrow Area. The Precinct 9 Borrow Area has been disturbed by earlier works and the proposed expansion progresses towards the landform changes required for the future residential development of that part of the site.

The Precinct 9 Borrow Area will provide suitable fill material for the earthworks in the SSPP.

A Geotechnical Report relating to the proposed filling of the SSPP is attached as **Annexure F**. The extension to the Precinct 9 Borrow Area has been designed in accordance with, and is adequately addressed by, the Geotechnical Assessment by Douglas Partners - *Proposed Borrow Source Precincts 9 and 11 Cobaki Lakes, Cobaki* dated December 2013, which already forms part of the Project Approval (Mod 2).

The environmental impacts and the ameliorative management measures for the proposed inclusion of the filling of the SSPP and the expansion of the Precinct 9 Borrow Area are addressed in the Environmental Assessment Report attached as **Annexure G**.

Appropriate detail of how the work will be effectively managed to mitigate potential operational impacts is addressed in the Construction Environmental Management Plan attached as **Annexure H**.

A letter from the Project Cultural Heritage Consultant in relation to cultural heritage matters relating to the filling of the SSPP is attached as **Annexure I**.

The acoustic impact of the work associated with the Precinct 9 Borrow Areas has been discussed in the Environmental Noise Impact Report which already forms part of the Project Approval. The proposed filling of the SSPP is within the bounds of the other filling operations associated with the Project Approval. Accordingly, the noise impact associated with the proposed modification is already adequately addressed by the Environmental Noise Impact Report which already forms part of the Project Approval.

The proposed modification which relates to an expansion of the Precinct 9 Borrow Area and filling of the SSPP are within the approved "development footprint" of the Cobaki Estate in accordance with the Concept Plan Approval. Environmental considerations have been adequately addressed by the requirements for offsetting, rehabilitation and revegetation under the Cobaki Estate Concept Plan Approval No. 06_0316. Rehabilitation of the surrounding vegetation management areas will proceed in association with the future subdivision of the affected areas in accordance with the Statement of Commitments.

The modification to the project is required to enable the project to proceed on a practical and viable basis, utilising the available on-site resource.

The extension to the Precinct 9 Borrow Area has been designed by the Project Engineers so as to ensure that it works towards earthworks which are required to achieve a suitable landform for the future residential development of Precinct 9 as per the Cobaki Estate Concept Plan. The temporary batters to be created in the borrow areas will be stable and will minimise site disturbance.

In the circumstances of this case, it is submitted that the Environmental Assessment Report at **Annexure F** provides an adequate Environmental Assessment of the modified project.

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The proposed modification of the Project Approval is considered to be justified on the basis that the filling of the SSPP area is required to be undertaken concurrently with the filling of the adjacent road formations of Cobaki Parkway "missing link" and Sandy Road. The extension to the Precinct 9 Borrow Area is required to complete the required filling.

The SSPP and the Precinct 9 Borrow Area are both included development areas under the Cobaki Concept Plan Approval No. 06_0316.

6.0 CONCLUSION

Modification of the conditions and terms of the approval as proposed is authorised by Section 75W(1)(a) and (b) of the Environmental Planning and Assessment Act.

The proposed modifications are required to avoid unacceptable impacts associated with differential settlement between the road formation and infrastructure corridors (Cobaki Parkway "missing link" and Sandy Road) and the SSPP.

The proposed expansion to the Precinct 9 Borrow Area has been designed within the approved residential Precinct 9 under the Cobaki Concept Plan Approval No. 06_0316. The extension to the Precinct 9 Borrow Area is consistent with, and progresses towards, the landform changes required for the future residential development of that part of the site.

The modified proposal is accompanied by appropriate Specialist Reports and Management Plans to ensure that the works are appropriately managed.

The proposed modification to incorporate the filling of the SSPP and the extension to the Precinct 9 Borrow Area does not give rise to any significant impacts other than those previously anticipated and addressed in the comprehensive reports prepared under the Concept Plan Approval No. 06_0316 and Project Approval No. 08_0200.

The proposed modification of the approval is considered to be sustainable and in the public interest and therefore approval of the application is respectfully requested.

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