

Modification of Minister's Approval

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

As delegate of the Minister for Planning under delegation executed on 10 November 2014, I approve the section 75W modification of the project approval referred to in Schedule 1, subject to the modified conditions of approval outlined in Schedule 2.



Chris Ritchie
Manager
Industry Assessments

Sydney 13 FEBRUARY 2015

SCHEDULE 1

- Project Approval:** 08_0200 granted by the Deputy Director-General, Development Assessment & Systems Performance on 28 February 2011.
- Proponent:** LEDA Manorstead Pty Ltd
- For the following:** Cobaki Estate at Lot 1 DP 5700076, 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
- Modification:** 08_0200 MOD 3 involving additional conditions and amendments to:
- Condition 3 to include reference to expanded Precinct 9 borrow area earthworks and filling of the SSPP Area;
 - Condition 4 to reference documentation submitted as part of the modification request;
 - Condition 19 to specify geotechnical requirements associated with the Missing Link;
 - Condition 30 to reference the requirements to update the Acid Sulfate Soil Management Plan;
 - Condition 41(b) to reference the placement of fill within the SSPP area whereby bulk earthworks may be carried out for the sole purpose of winning fill to be placed in this area; and
 - Condition 65 to update the requirements in relation to the Final Saltmarsh Rehabilitation Plan.
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SCHEDULE 2

The project approval as described in Schedule 2 is modified as follows:

- (a) **Insert eight new rows (and associated note) following the fifty-ninth row of the table under Condition 3 as follows:**

Earthworks Drawings prepared by Yeats Consulting Engineers (MOD 3)			
Drawing No.	Revision	Name of 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 and 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

Note: Where there has been a duplication of drawing number (with Drawing sets -1P1- and -1E1-) within the approval documentation, only the most recent plan applies.

- (b) **Insert new clauses (m) to (p) following clause (l) under Condition 4 as follows:**

- m. Modification Application MP08_0200 MOD 3 - *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.

- (c) **Insert new clause 9a. within Schedule 1:**

9a Dispute Resolution

In the event that a dispute arises between the Proponent and Council or a public authority other than the Department, in relation to a specification or requirement applicable under this consent, the matter may be referred by either party to the Secretary, or if not resolved, to the Minister, whose determination of the dispute shall be final and binding to all parties. For the purpose of this condition, 'public authority' has the same meaning as provided under Section 4 of the EP&A Act.

(d) Immediately after Condition 19c. insert new Condition 19d. as follows:

- d. Prior to the commencement of any further works within the 'Missing Link' section of the Cobaki road network, the Proponent shall provide, to the satisfaction of the Secretary, an independent geotechnical review of the Proponent's geotechnical certification of the "bridging layer" works constructed within the Missing Link road reserve. This review must:
 - i. be conducted by a suitably qualified, experienced and independent Geotechnical Engineer whose appointment has been endorsed by the Council prior to conducting the assessment;
 - ii. be paid for in full by the Proponent;
 - iii. cover the full extent of the "bridging layer" works constructed to date;
 - iv. validate that the Proponent's geotechnical certification complies with the recommendations of approved, applicable Geotechnical Report(s) and AS3798 – *Guidelines on Earthworks for Commercial and Residential Developments* and confirms that the material placed within the Missing Link to date is suitable for its proposed purpose in its current state and/or make recommendations to achieve compliance;
 - v. advise if the Proponent's geotechnical certification confirms the suitability or otherwise of the material and methods used to install the "bridging layer" works and provide recommendations where necessary to ensure that the "bridging layer" is suitable for its intended purpose.

(e) Immediately after Condition 30c. insert new Condition 30d. as follows:

- d. Prior to commencing works within the Southern Special Purpose Precinct (SSPP), the Proponent shall update the current ASSMP referred to in sub clause 30c) to address the SSPP area and include consideration of the application of lime during filling of the SSPP area. The ASSMP shall be updated to the satisfaction of the PCA prior to the commencement of filling works in the SSPP area. Include detail of the application of lime within the SSPP area during fill placement.

(f) Delete clause (b) of Condition 41 and replace with the following:

- 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 specified in Condition 3.

(g) Amend condition 65b. as follows:

- b. Within three months of the date of the MP 08_0200 MOD 3 Approval, the Proponent shall submit to the Secretary 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 to track success against those aims and objectives (for each stage and overall);
 - ii. detailed restoration approach including planting species lists, composition and density for each ecological community. For endangered ecological communities (EECs), species composition is to be benchmarked against a reference EEC community;
 - iii. details on creek bank erosion management;
 - iv. details of tidal flux and hydrological management;

- v. timing and responsibilities for each action;
- vi. developer maintenance period reflecting completion criteria;
- vii. an adaptive management approach that includes the option to lower the dredged bund levee adjacent to Cobaki Creek below 0.3m;
- viii. Details of the proposed program for the implementation of the plan including timelines and performance and completion criteria for the saltmarsh rehabilitation works including trigger values that enable adjacent works (i.e. earthworks) to commence; and
- ix. Monitoring and reporting requirements that enable tracking of progress towards the performance and 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 OEH, NSW Department of Primary Industries – Fisheries NSW and Council for their information.

(h) Immediately after Condition 65g. insert new Condition 65h. as follows:

- c. Implementation of the Final Saltmarsh Rehabilitation Plan shall commence upon approval of the Plan.

(i) Amend Statement of Commitment 5. as follows:

Project Component	Environmental Outcome	Measure	Timing for Completion
5. Saltmarsh	Saltmarsh is rehabilitated and maintained	Saltmarsh is to be rehabilitated and maintained in accordance with the Final Saltmarsh Rehabilitation Plan once approved by the Secretary.	Rehabilitation works will commence upon approval of the Final Saltmarsh Rehabilitation Plan, and be completed in accordance with the Final Saltmarsh Rehabilitation Plan until the land is dedicated to Tweed Shire Council.

END OF MP 08_0200 MOD 3
