

Council Reference: DA10/0853.09 LN20960  
Your Reference: MP 08\_0200 MOD 5

13 December 2016

Modification Assessments – Planning Services  
Department of Planning & Environment  
GPO Box 39  
**SYDNEY NSW 2001**

**Attention: Natasha Harras**

Dear Sir/Madam

**Proposed modification of the Cobaki Project Approval  
(MP08\_0200 Mod 5) with regard to fencing and raptor nest  
requirements (Condition 39A and 39B).**

I refer to your email dated 21 November 2016 inviting Council to provide comment on the proponent's response to submissions. Upon review of the documentation associated with Mod 5, please find below Council's comments:

**1. Condition 39A – Fencing of Environmentally Sensitive Areas – Precinct 9 and 11 Earthworks**

Condition 39A has two components, these being: (a) fencing requirements around rehabilitation / covenant areas; and (b) barriers / fencing around an existing Raptor nesting site.

It is proposed to replace the existing wording of Condition 39A with the following:

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

Comment:

With respect to Condition 39A(a), Council recognises that the intent of the proposed Mod is to ensure that the fencing requirements only relate to earthworks activities within Precinct 9 and 11. Given that the proponent's revised fencing plan provides for protection of the environmentally sensitive areas adjoining Precincts 9 and 11, Council supports the proponent's request to clarify the temporary fencing provisions, as identified in Dwg 3310071E-044(2) Rev B. Accordingly, a modification of part (a) of Condition 39A, with similar wording to that identified above is supported.

In terms of Condition 39A(b), whilst it is acknowledged that the Raptor nesting tree within Precinct 9 has not been utilised for some time, Council does have evidence of

previous use by Ospreys. It is considered appropriate that the 5m buffer fencing requirements be kept in place, to provide protection to the existing tree during construction works within Precinct 9. As such, the removal of Condition 39A(b) is not supported.

## **2. Condition 39B – *Buffer to Raptor Nesting Site***

Condition 39B requires the proponent's Environmental Officer to determine whether the existing Raptor nest in Precinct 9 is in use prior to Precinct 9 earthworks being carried out. If the site is being utilised by any Raptor species, no works are permitted within 100m radius of the nesting site.

It is proposed to delete Condition 39B.

### Comment:

Although the proponent has identified the additional Raptor nest in Precinct 11 and applied a 100m buffer, it is not considered appropriate to remove the condition. Whilst it is recognised that the Raptor nesting site within Precinct 9 has not been utilised for some years, the tree remains in place as a possible nesting site. The 100m buffer provisions of Condition 39B only apply if the proponent's Environmental Officer identifies that the nesting site in Precinct 9 is being utilised. As such, it is not considered necessary to delete Condition 39B and the proponents request to do so is not supported.

For further information regarding this matter please contact Colleen Forbes on (02) 6670 2596.

Yours faithfully

**Lindsay McGavin**  
Manager Development Assessment and Compliance