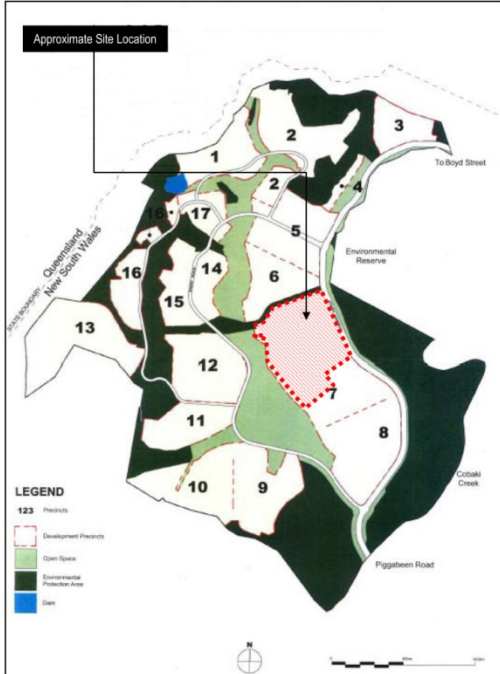


JOINT REGIONAL PLANNING PANEL
(Northern Region)

JRPP No	2016NTH009
DA Number	DA16/0056
Local Government Area	Tweed Shire Council
Proposed Development	<p>Concept Development Application under Section 83B of the EP&A Act 1979 for the development of Precincts 6, 7, 8, 9, 10, 11 & 12 – Cobaki Lakes (JRPP), Stages 2 and 3 – Subdivision of part Precinct 6 and part Precinct 7 comprising 452 residential lots, 8 public open space lots, 1 school lot, residual lots and associated infrastructure.</p> 
Street Address	Lots 46, 54, 55, 200, 201, 202, 205, 206, 209, 199, 228, 305 DP 755740; Lot 1 DP 823679; Lot 1 DP 570077; Lot 1 DP 562222; Lot 2 DP 566529; Lot 1 DP 570076; Sandy Lane and Piggabeen Road, Cobaki Lakes
Applicant	LEDA Manorstead Pty Ltd C/- Planit Consulting Pty Ltd
Owner	LEDA Manorstead Pty Ltd
Number of Submissions	<p>Nil public submissions were received.</p> <p>Submission have also been received from/on behalf of the following Public Authorities:</p>

	<ul style="list-style-type: none"> • Essential Energy; • NSW Rural Fire Services; and • Roads & Maritime Services – Transport.
Recommendation	Deferred Commencement Approval with conditions
Regional Development Criteria (Schedule 4A of the Act)	<p><i>3. Development with a capital investment value (CIV) over \$20 million.</i></p> <p>The Concept Development Application has CIV of \$105,395,000 over 8 stages.</p> <p><i>9. Coastal Subdivision - subdivision of land for residential purposes into more than 100 lots, if the land is not in the metropolitan coastal zone, or is wholly or partly in a sensitive coastal location.</i></p> <p>The proposal incorporates 452 residential allotments, and is not in the metropolitan coastal zone.</p> <p>As such, the Northern Regional Planning Panel is the determining authority in accordance with Clause 3 and 9 of Schedule 4A of the EP&A Act.</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <u>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</u> SEPP No. 44 – Koala Habitat Protection SEPP No. 55 - Remediation of Land State Environmental Planning Policy (SEPP) No 71 – Coastal Protection SEPP (Infrastructure) 2007 Tweed Local Environmental Plan 2014 • <u>List any relevant development control plan: s79C(1)(a)(iii)</u> Tweed DCP Section A2 – Site Access & Parking Code Tweed DCP Section A3 - Development of Flood Liable Land

	<p>Tweed DCP Section A5 – Subdivision Manual</p> <p>Tweed DCP Section A11 - Public Notification of Development Proposals</p> <ul style="list-style-type: none"> • <u>List any coastal zone management plan: s79C(1)(a)(v)</u> <p>Tweed Shire Coastline Management Plan 2005</p> <p>Coastal zone Management Plan for Cobaki and Terranora Broadwater</p> <ul style="list-style-type: none"> • <u>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</u> <p>Clause 92(a) Government Coastal Policy</p>
List all planning legislation requirements that the consent authority <u>must</u> consider	<ul style="list-style-type: none"> • Clause 7 of SEPP 55 – Remediation of Land; • Clause 104 of SEPP (Infrastructure) 2007; and • Clause 2.3(2), 5.5(2), 5.5(3), 7.2(3), 7.3 and 7.10 of the Tweed LEP 2014. <p>All of the applicable consent considerations associated with the abovementioned SEPP's have been addressed within the body of this report.</p>
List all documents submitted with this report for the panel's consideration	<p>Section 79C Assessment Report including proposed conditions of consent.</p> <p>Proposed Subdivision Plans (for Determination)</p> <p>Draft Plans of Development (Information Only)</p>
Report by	Colleen Forbes (Team Leader Development Assessment)
Report date	30 November 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
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e.g. Clause 7 of SEPP55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	Not Applicable
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Note: Certain Das in the Western Sydney Growth Areas Special Contributions Areas may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?	
<i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

Assessment Report and Recommendation

FILE NO: DA16/0056

REPORT TITLE:

Development Application DA16/0056 for a concept development application under Section 83B of the EP&A Act 1979 for the development of Precincts 6, 7, 8, 9, 10, 11 & 12 – Cobaki Lakes, Stage 2 – part Precinct 6 and Stage 3 - part Precinct 7 comprising 452 residential lots, 8 public open space lots, 1 school lot, residual lots and associated infrastructure (JRPP) at Lot's 46, 54, 55, 200, 201, 202, 205, 206, 209, 199, 228, 305 DP 755740; Lot 1 DP 823679; Lot 1 DP 570077; Lot 1 DP 562222; Lot 2 DP 566529; Lot 1 DP 570076; Sandy Lane and Piggabeen Road Cobaki Lakes

SUMMARY OF REPORT:

Council is in receipt of a development application seeking consent for the subdivision of Precincts 6 and 7 of the Cobaki development site. The proposal incorporates 452 residential lots, 8 public open space lots, 1 school lot, residual lots and associated infrastructure.

The proposed development involves Stages 2 and 3 of the approved conceptual Masterplan (for the subdivision of Precincts 6 to 12) under DA15/1026. The approval of DA15/1026 also incorporated Stage 1 bulk earthworks across Precincts 6 to 12.

Whilst Council officers are responsible for the assessment of the proposed subdivision of P6&7, Schedule 4A of the EP&A Act requires that development with a CIV over \$20 million and coastal subdivisions of more than 100 lots of land that is not in the metropolitan coastal zone must be reported to the Panel for determination. Accordingly, the JRPP is the determining authority for this application.

The proposed development was submitted to Council on 22 January 2016 and was advertised and notified to adjoining and nearby properties between 17 February and 1 March 2016. No submissions were received from the general public. Comments were received by several State agencies. These are discussed in detail later in the report.

A detailed assessment has been undertaken against all relevant legislation, including the Cobaki Concept Plan approval and associated Development Code, Tweed LEP 2014 and the Tweed Development Control Plan 2008. This report has been broken up into four main sections:

A - Site Context and Previous Approvals

B – Proposed Development

C –Concept Plan Assessment

D - Main Assessment

Potential impacts arising from the proposed development include: stormwater drainage impacts; noise impacts; and water supply / wastewater provisions. The proposal was supported by a number of

documents (including but not limited to): Subdivision Plans; Plans of Development; Environmental Management Plans; Traffic Impact Assessment; Noise Impact Assessment; Stormwater Quality Management Plan; and Open Space / Landscaping Strategies. A detailed assessment of the proposed subdivision is at Section D of this report.

Council's Development Assessment Unit, Environmental Health Unit, Recreation Services Unit, Water & Wastewater Unit, Roads & Stormwater Unit, Development Engineering Unit and Natural Resource Management Unit have assessed the proposed development with regard to potential impacts arising from the proposed subdivision. No objections were raised by Council officers, subject to the imposition of relevant conditions of consent.

The application has required significant review and assessment by Council officers over a period of almost two years. Council officers have issued three detailed Requests for Further Information letters to the applicant, which over this period has resulted in various improvements to the design of public infrastructure in Precincts 6&7. Although the design of the proposal has been moving forward in a positive direction, with the applicant accommodating most of the requested amendments to the design of the development, a few key areas still require further amendments. It is considered that these outstanding matters can be dealt with by way of deferred commencement conditions, which will allow the application to be determined without further delay for revised plans.

The deferred commencement matters relate to:

- Plans of Development – ensuring that they provide sufficient information to comply with the requirements of Condition C1(POD requirements), C8 (Bushfire Assessment), C12 (Road Traffic Noise Impact) and C14 (Bus Network) of the Concept Plan approval; and
- Plans of Development – ensuring that they provide sufficient information to comply with bushfire requirements of Control 5.6 (1a & b), and easement requirements relating to Control 5.6(e) and 5.9(2) of the Development Code.

There was one additional deferred commencement matter in relation to stormwater design for the development. The applicant however has now amended the stormwater design sufficiently enough to allow Council officers to be satisfied that an appropriate design can be achieved. Accordingly, stormwater details are now required prior to the issue of a Construction Certificate rather than being a deferred commencement matter.

Appropriate conditions of consent have been recommended to ensure that any other potential impacts arising from the proposed development (such as noise impacts) can be adequately controlled and managed.

There are a number of planning legislation requirements that the consent authority must consider. A detailed assessment of the relevant clauses is noted within the report. A summary is noted below:

- **Clause 7 of SEPP No 55 – Remediation of Land.** The original assessment of the Concept Plan identified two areas of potential contamination within Precinct 10 and 17 of the development site. The proposed subdivision is not located in the vicinity of Precincts 10 or 17 and is not considered to trigger any further assessment under SEPP 55. Accordingly, Council officers are satisfied that the proposed amendments meet the provisions of clause 7 of SEPP 55;

- **Clause 104 of the Infrastructure SEPP – *Traffic Generating Development*** Clause 104 (3) states that the consent authority must have regard for any submission from RMS, accessibility of the site and potential traffic safety, road congestion or parking implications when determining a development application in respect of land within the zone. The proposed subdivision of P6&7 is considered to satisfy the requirements of Clause 104(3);
- **Clause 2.3 (2) of the Tweed Local Environmental Plan 2014** – Clause 2.3 (2) states that the consent authority must have regard for the objectives for development in a zone when determining a development application in respect of land within the zone. The proposed subdivision of P6&7 is considered to satisfy the zone objectives;
- **Clause 5.5(2) of the Tweed Local Environmental Plan 2014** – Clause 5.5 (2) states development consent must not be granted to development on land that is wholly partly within the coastal zone unless the consent authority has considered: (a) public access along the foreshore; (b) suitability of the proposed development its relationship with the surrounding area and its impact on the natural scenic quality, taking into account type of development, location, bulk, scale size; (c) the impact of the proposed development on the amenity of the coastal foreshore including; (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected; and (e) how biodiversity and ecosystems, can be conserved. The subject site is not located on the foreshore and the proposed subdivision is not considered to have any impact upon the coastal zone overall;
- **Clause 5.5 (3) of the Tweed Local Environmental Plan 2014** – Clause 5.5 (3) states development consent must not be granted to development on land that is wholly partly within the coastal zone unless the consent authority is satisfied that: (a) the proposed development will not impede or diminish land-based right of access of the public to or along the coastal foreshore; (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on waterways; (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform; and (d) the proposed development will not affect or be affected by coastal hazards. The proposed subdivision of P6&7 is considered to be acceptable having regard to coastal hazards;
- **Clause 7.2(3) of the Tweed LEP 2014 – *Earthworks***. Clause 7.2(3) requires the consent authority to consider effects and potential impacts on the site and surrounding locality as a result of the proposed earthworks. Subject to conditions of consent, Council officers are satisfied that the proposed subdivision meets the provisions of clause 7.2(3) of the Tweed LEP 2014;
- **Clause 7.3 of the Tweed LEP 2014 – *Flood Planning***. The provisions of clause 7.3 require the consent authority to consider potential impacts and compatibility of the proposed development in terms flooding. Subject to conditions of consent, the proposed subdivision is considered be consistent with the provisions of clause 7.3 of the Tweed LEP 2014; and
- **Clause 7.10 of the Tweed LEP 2014 – *Essential Services***. Clause 7.10 requires the consent authority to consider essential services for the proposed development. Council officers are satisfied that subject to conditions of consent, the proposed subdivision will satisfy the provisions of clause 7.10 of the Tweed LEP 2014.

In summary, the proposed subdivision of Precinct 6&7 is considered satisfactory, subject to the imposition of suitable conditions of consent to address and mitigate key issues relating to potential impacts arising from the proposed development. The application has been assessed in detail against the relevant matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*, including impact assessment, suitability of the site and public interest, and is considered satisfactory.

It is recommended that the proposed subdivision of P6&7 (DA16/0056) be approved, subject to conditions documented in the recommendation at the end of this report.

REPORT:

Applicant: Leda Manorstead Pty Ltd C/- Planit Consulting Pty td

Owner: Leda Manorstead Pty Ltd

Location: Lot's 46, 54, 55, 200, 201, 202, 205, 206, 209, 199, 228, 305 DP 755740; Lot 1 DP 823679; Lot 1 DP 570077; Lot 1 DP 562222; Lot 2 DP 566529; Lot 1 DP 570076; Sandy Lane and Piggabeen Road, Cobaki Lakes

Zoning: R1 - General Residential RE2 - Private Recreation 7(l) Environmental Protection (Habitat) 7(d) Environmental Protection (Scenic/Escarpment) B2 - Local Centre 7(a) Environmental Protection (Wetlands and Littoral Rainforests)

SECTION A - SITE CONTEXT AND PREVIOUS APPROVALS

SITE AND SURROUNDS:

The site is known as Cobaki Estate and is comprised of 17 precincts. It has a total area of 593.5ha. Precincts 6 to 12 are approximately 150ha in area.

The site is situated approximately 6km west of Tweed Heads. It is within close proximity to the Queensland border and the Gold Coast International Airport, situated a short distance to the north-east.

Existing on-site vegetation includes dry sclerophyll forest, rainforest, woodland, heathland, mangrove forest, grassland and rushland / sedgeland and saltmarsh.

Topography on the site varies significantly including relatively steep slopes and ridges to the north and west and low lying flood planes in the centre of the site. The topography of the site could best be described as a 'basin'.

Residential development is located to the north of the site in Queensland, but physically separated from the site by topography and a linear corridor of existing bushland.

Land to the west and southwest of the site is predominately rural in character and includes adjoining bushland as well as Cobaki Creek. The area east of the site is characterised by remnant bushland and Cobaki Broadwater.

BACKGROUND:

Old Development Consents

Several development consents have been issued over the subject site between 1993 and 2002 for bulk earthworks and residential subdivision.

A summary of existing consents is outlined in the table below. The majority of the bulk earthwork consents have commenced and works have been undertaken.

Consents		
Reference	Description	Date of Consent
D92/315	Boyd Street Extensions	5 January 1993
D94/438	Bulk Earthworks	27 January 1995
S94/194	730 Lot Urban Subdivision Parcels 1 to 5 and 13 Englobo Parcels (The Entrance, The Sand Ridge)	19 September 1995
D96/271	Bridge over Cobaki Creek	8 April 1997
S97/54	430 lot residential subdivision – parcel 7 to 10 (The Knoll, Piggabeen)	21 October 1997
K99/1124	560 Lot Urban Subdivision (The Foothills, The Plateau, Valley East, Valley West, East Ridge)	21 July 2000
1162/2001DA	8 Management Lots and Bulk Earthworks (town centre)	8 October 2002

A number of Construction Certificates (CCs) have also been issued for bulk earthworks and other civil engineering works including construction of Cobaki Parkway.

Concept Plan Approval (MP06 0316)

The Minister for Planning issued a Concept Approval for the site on 6 December 2010. The approval was for the following:

- Residential development for approximately 5,500 dwellings
- Town Centre and neighbourhood centre for future retail and commercial uses
- Community facilities and school sites
- Open space
- Wildlife corridors

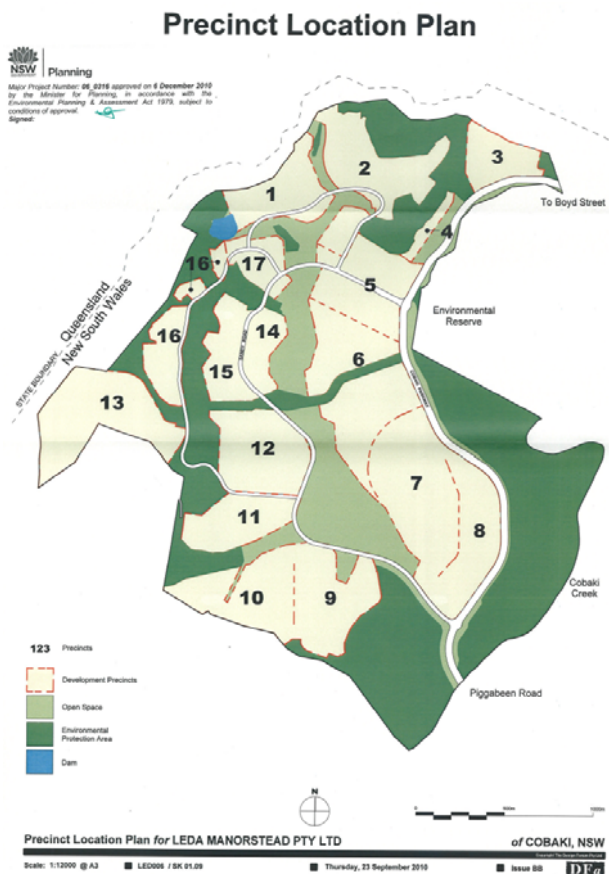
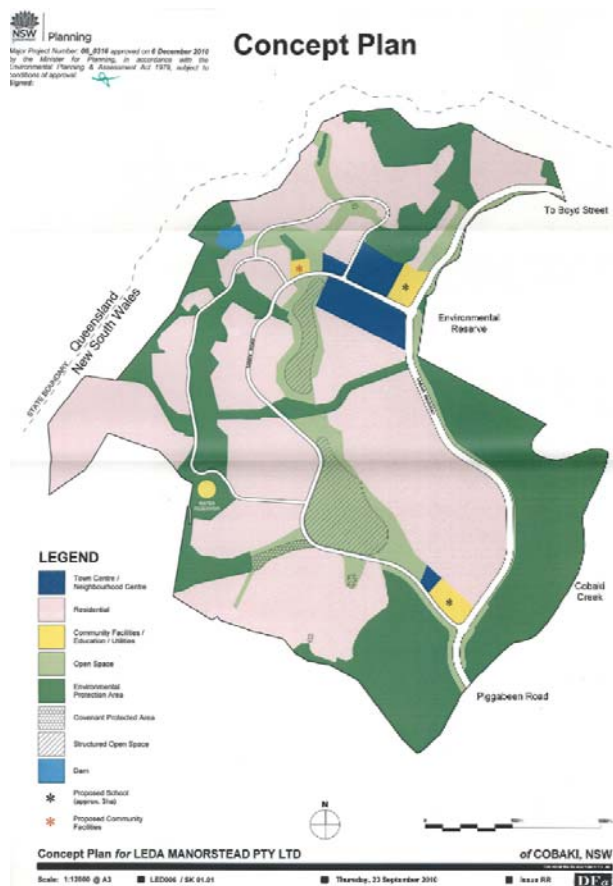
- Protection and rehabilitation of environmentally sensitive land
- Road corridors and utility services infrastructure
- Water management areas
- Roads and pedestrian and bicycle network

The Minister stipulated that approval to carry out the project, other than the central open space and Precinct 5, be subject to Part 4 or 5 of the Act, as relevant.

Schedule 2 of the Concept Approval contains modifications to the concept plan and requirements for future applications.

Mod 1 of the Concept Plan was approved by the Minister on 29 May 2013. More recently, additional modifications to the Concept Plan have been approved: Mod 5 (private water / sewer) was approved on 29 August 2017; Mod 4 (school, registered club, childcare centre etc) was approved on 31 August 2017; and Mod 7 (update terminology and amend Exempt & Complying provisions, as well as residential and subdivision controls within the Development Code) was approved on 26 October 2017.

An assessment of the current application against the provisions of the Concept Plan approval and Statement of Commitments is noted later in this report.



Figures 1 & 2 – Approved Concept Plan and Precinct plan

Exempt and Complying Order

An Order was issued by the Minister for Planning on 6 December 2010 declaring that the development within the Cobaki Estate site that satisfies the requirements for exempt or complying development specified in Part A – Exempt and Complying Development in Cobaki Estate Development Code, 15 November 2010, is exempt or complying development, as appropriate. Following the approval of Mod 7 of the Concept Plan, an Order to amend Part A was issued on 26 October 2017, making reference to the updated Development Code.

Development Code

The Development Code was approved by the Director General of the Department of Planning on 15 November 2010. As noted above, Mod 7 of the Concept Plan approved an amended version of the Development Code on 26 October 2017. An assessment of the current application against the provisions of the Development Code is noted later in this report.

Project Approval (MP08 0200)

The Deputy Director-General of Development Assessment & Systems Performance issued a Project Approval for the site on 28 February 2011. Amendments have been issued on: 29 May 2013 (Mod 1); 3 JRPP (***) Region) Business Paper – Item # - Date of Meeting – JRPP Reference

April 2014 (Mod 2); 13 February 2015 (Mod 3); and 29 August 2017 (Mod 4). The approval was for the following:

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; and
- 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.

The bulk earthworks associated with the approved Central Open Space drainage corridor (refer to Figure 3 below) have largely been completed.

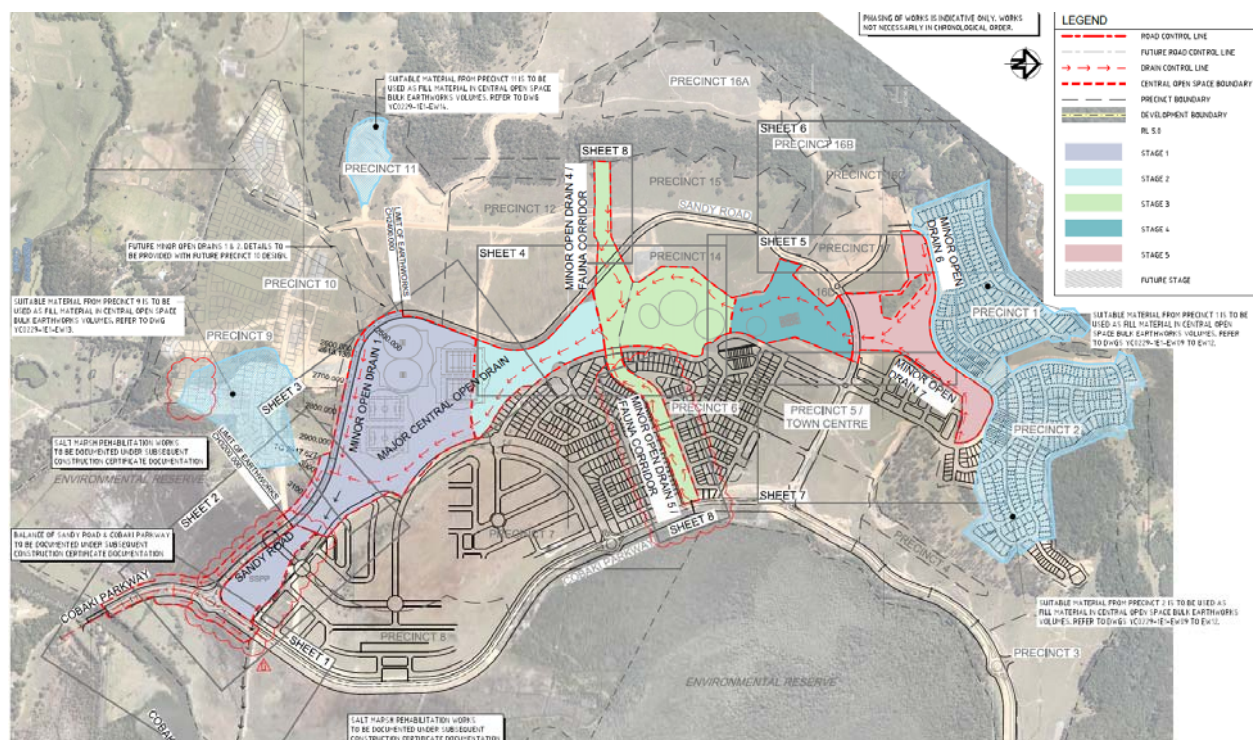


Figure 3 – Approved Project Approval (Mod 3) for the Central Open Space

More recently, approvals over the site include:

- DA10/0800 - Subdivision of Precincts 1&2, comprising of 475 residential lots, lots for drainage, open space and urban infrastructure. Approved by JRPP in May 2011 and amended by Council in March 2014.
- DA10/0801 - Subdivision of Precinct 6, comprising of 442 residential lots, lots for drainage, open space and urban infrastructure. Approved by JRPP in May 2011 and amended by Council in June 2014. This approval has since lapsed.
- DA15/0916 - Precinct 6 fauna corridor and culvert crossings. Approved by Council in February 2016.
- DA15/1026 - Staged Development Application under Section 83B of the EP&A Act 1979 development of Precincts 6, 7, 8, 9, 10, 11 & 12 – Cobaki Lakes (JRPP), Stage 1 – staged bulk earthworks. Approved by JRPP in June 2016.

The approved development for DA15/1026 incorporated a conceptual Masterplan for the subdivision of Precincts 6 to 12 and included Stage 1 of the development – staged bulk earthworks of Precincts 6 to 12. Section 83B of the Act allows for the future subdivision of Precincts 6 to 12 to be subject to future development applications.

The following staging was proposed for the development:

- Stage 1 – Staged Bulk Earthworks (approved under DA15/1026);
- Stage 2 – Subdivision of Precinct 6 (the subject of this application – DA16/0056);
- Stage 3 – Subdivision of Precinct 7 (the subject of this application – DA16/0056);
- Stage 4 – Subdivision of Precinct 8 (subject of future application);
- Stage 5 – Subdivision of Precinct 9 (subject of future application);
- Stage 6 – Subdivision of Precinct 10 (subject of future application);
- Stage 7 – Subdivision of Precinct 11 (subject of future application); and
- Stage 8 – Subdivision of Precinct 12 (subject of future application).

The approved Stage 1 bulk earthworks across Precincts 6 to 12 incorporates 31 stages to ensure that each stage complies with the minimum 5ha of exposed areas. The bulk earthworks will utilise the majority of material from Precincts 9 and 11 for the purposes of fill across the seven precincts, as required.

An amendment to the Stage 1 bulk earthworks (DA15/1026.01), to incorporate blasting of hard rock from Precinct 9, was approved by the JRPP on 18 August 2017.

An additional amendment to the Stage 1 bulk earthworks (DA15/1026.02), to increase the maximum allowable disturbed area for bulk earthworks in Precinct 6, 7 and 9, was approved by the JRPP on 24 November 2017.

The approved Masterplan for the Staged Development Application (DA15/1026) is noted below in Figure 4:

PRECINCT 6 TO 12

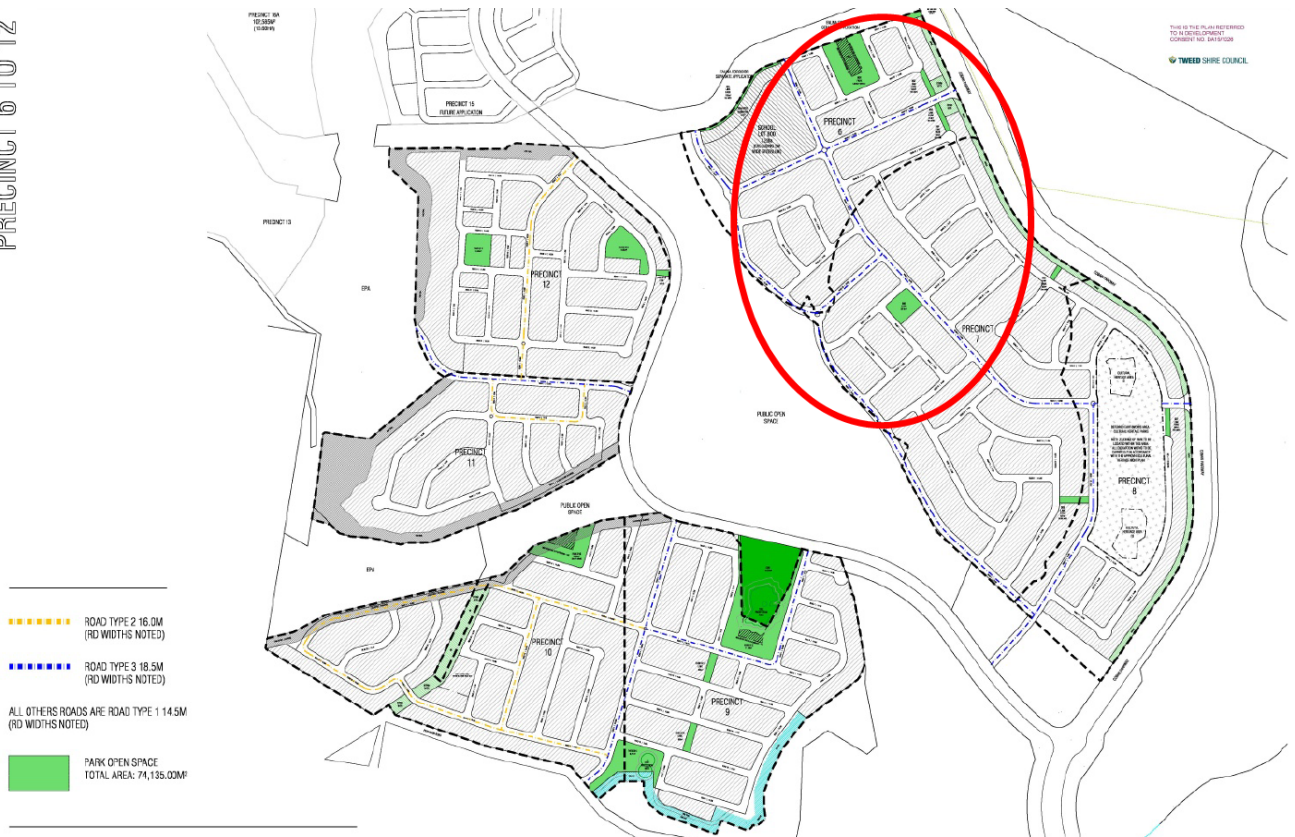


Figure 4 – Approved Masterplan for Precincts 6 to 12 with location of proposed subdivision circled in red

SECTION B – PROPOSED DEVELOPMENT

SUBDIVISION OF PART PRECINCT 6 AND PART PRECINCT 7

The proposed development is a Concept Development Application under Section 83B of the EP&A Act 1979 for the development of Precincts 6, 7, 8, 9, 10, 11 & 12 – Cobaki Lakes (JRPP). Stage 1 (approved under DA15/1026) incorporated the staged bulk earthworks across Precincts 6 to 12. The proposed development, being **Stages 2 and 3** of the approved Masterplan, provides for the subdivision of part Precinct 6 and part Precinct 7 (over 11 stages), as shown in Figure 5 below.

The proposed development has to incorporate Plans of Development (POD's) for all of the residential allotments associated with the subdivision, as per the requirements of the Concept Plan and Cobaki Development Code. A detailed assessment of the proposal against both of these approvals has been undertaken and provided later in this report.

The POD's provide specific requirements for future dwellings (including but not limited to) setbacks, fencing, garage locations and private open space provisions. If the future owner of an allotment complies with the controls set out in the POD's, Development Code, Landscaping Guidelines etc, the dwelling can be approved as Complying Development. Any variation to the POD or Development Code would require a development application to be submitted to Council for approval.

SITE DIAGRAM:

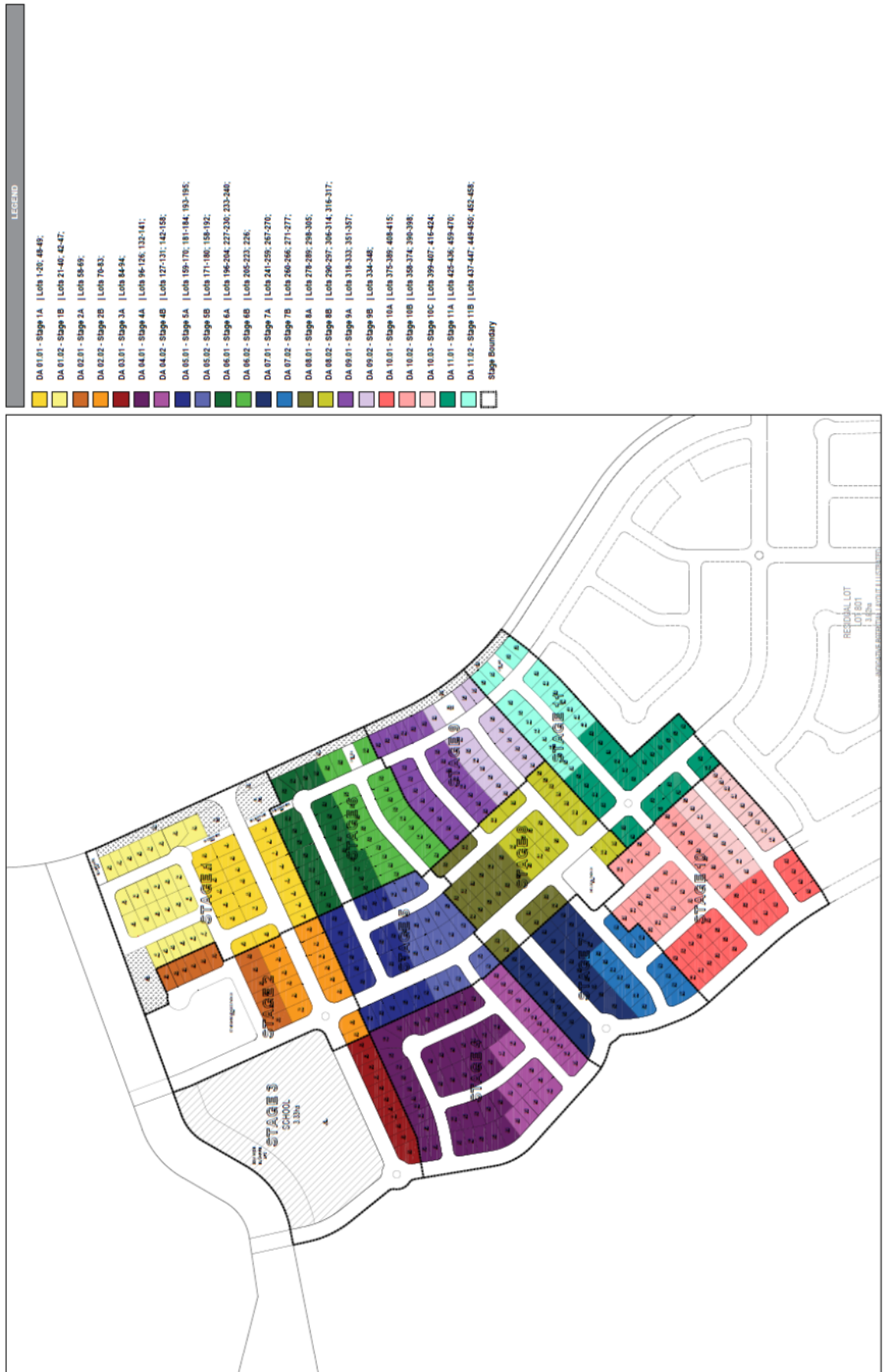


DEVELOPMENT PLANS:

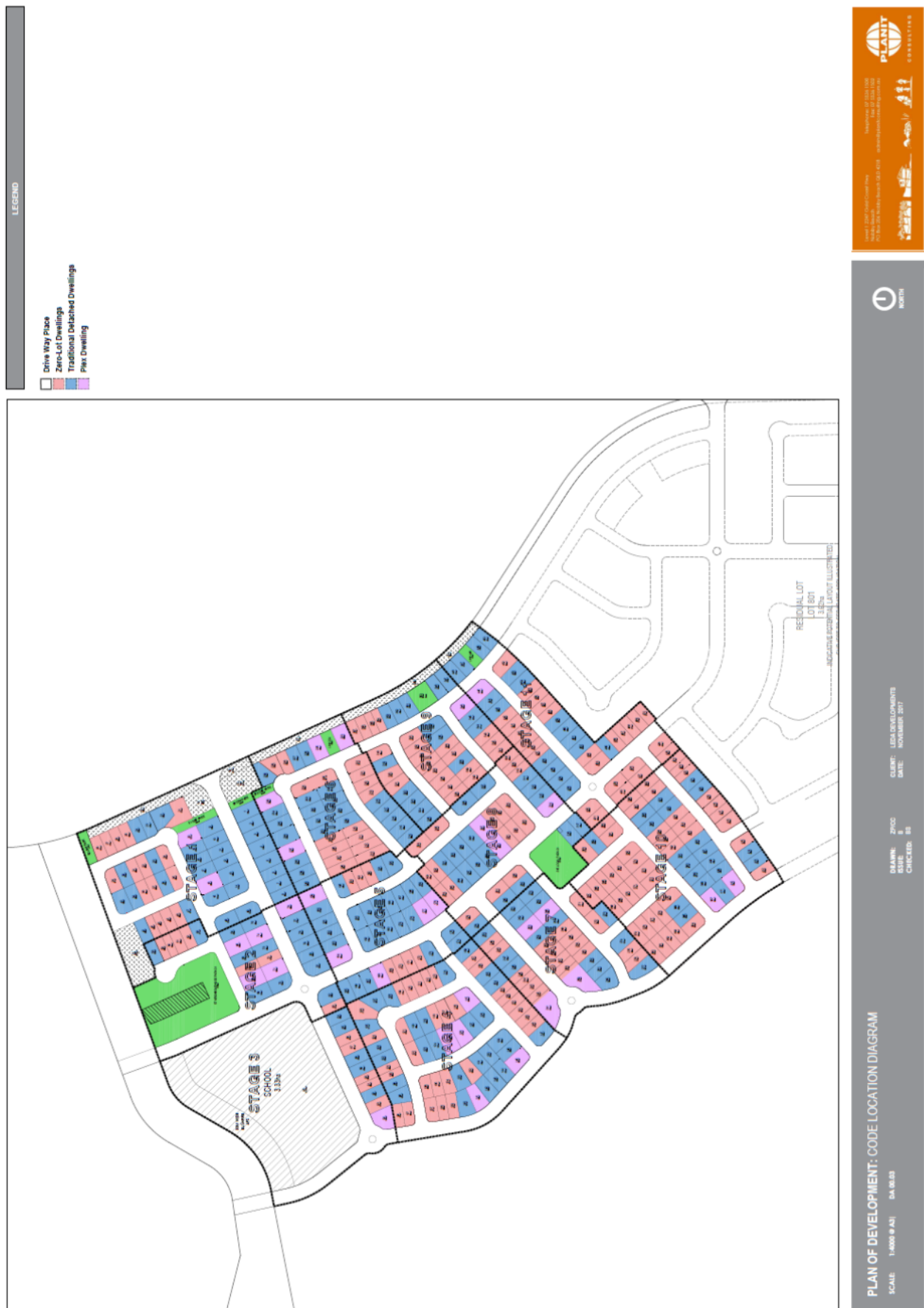


Overall P6&7 Subdivision Layout

400m Radius From Open Space



Plan of Development – Staging Plan



Plan of Development – Dwelling Type Plan

SECTION C – CONCEPT PLAN ASSESSMENT

Concept Approval

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p><i>C1 Plan of Development</i></p> <p>A Plan of Development must be submitted with each future application for subdivision on the Cobaki Estate site. The Plan of Development must, at a minimum, include the following information:</p> <ol style="list-style-type: none"> (1) Location and width of Asset Protection Zones. (2) A notation on fire affected lots that development is subject to the requirements of 'Planning for Bushfire Protection 2006' and AS3959-2009 Construction of Buildings in Bushfire Prone Areas. (3) Type of development permissible on each lot, eg: zero lot housing, plex housing, etc. (4) Fill and Finished floor levels requirements on flood prone lots in accordance with the requirements of Tweed Shire Council's Development Control Plan - Section A3 - Flood Liable Land (or any replacement document). (5) All other matters specified for Subdivision in the Cobaki Development Code. 	<p>Complies – See Appendix B – POD and Appendix L – Bushfire Threat Assessment Report & BAL Plan.</p>	<p>The applicant has submitted Plans of Development (POD's) for Precincts 6 and 7.</p> <p>Whilst the POD's incorporate bushfire requirements, the type of permissible development for each lot, fill and finished floor levels, not all matters as specified in the Cobaki Development Code have been provided. The requirements of the Code are detailed later in this report.</p> <p>As such, Deferred Commencement Conditions have been applied to allow the applicant time to undertake detail design and update the POD's accordingly.</p>
<p><i>C2 Implementation of Part B of the Cobaki Development Code</i></p> <p>All future project/development applications for residential subdivision or for the construction of dwellings or commercial</p>	<p>Section 3.2 of this statement</p>	<p>The applicant has provided an assessment against the relevant provisions of the Development Code.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
premises must demonstrate consistency with Part B of the Cobaki Development Code.		Further detail is provided later in this report.
<p><i>C3 Housing Densities</i></p> <p>All future applications for each stage of development for residential subdivision are to provide a plan which:</p> <ol style="list-style-type: none"> (1) Details the mix densities in each precinct; (2) Demonstrates adoption of the neighbourhood planning principles in the Far North Coast Regional Strategy; (3) Details the objectives for the location of housing of various densities; (4) Details the proposed number and size of dwellings in each stage and precinct; (5) Details sites for seniors housing and support facilities (6) Demonstrates the implementation of the levels of accommodation provided for in the approved concept plan; (7) Details sites for higher density development; and (8) Details discussions with Tweed Shire Council. 	<p>Complies – See Appendix A –Subdivision Plans, Appendix B – POD, Appendix C – Design Guidelines</p>	<p>The applicant has provided a plan which details the mix of housing densities for Precincts 6 & 7.</p> <p>The proposal is considered to meet the provisions for the North Coast Regional Plan 2036 by way of providing additional housing for the region, with a variety of densities.</p> <p>The subdivision plans detail the number and size of dwellings.</p> <p>Seniors housing is not proposed within the proposed subdivision, however this could be provided in future subdivisions. The Development Code incorporates provisions for Seniors Housing.</p> <p>The subdivision provides for a wide variety of housing mix (ranging from 300m² to +650m² allotments), with the densities varied throughout the design. A total of 33 lots (7.3%) are designated Plex lots, which will allow for higher density development.</p> <p>Discussions have been held with Council regarding the</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
		proposed housing densities.
<p>C4 Management and Restoration Plans</p> <p>(1) All future applications are to include, where relevant, draft stage specific management plan updates to the Site Regeneration and Revegetation Plan, Freshwater Wetland Rehabilitation Plan, Fauna Management Plan, Vegetation Management Plan, Scribbly Gum Management Plan, Principal Buffer Management Plan, Landscape Concept Plan, Stormwater Concept Plan, Cultural Heritage Management Plan, Preliminary Acid Sulfate Soils Management Plan providing, where relevant, details on timelines for implementation of recommended works including maintenance periods, funding arrangements and measurable performance and completion criteria.</p> <p>Each plan is to consider all other existing plans for the site to ensure management strategies do not conflict and each plan can be implemented without negatively impacting on the objectives of another.</p>	<p>Appendix K – Acid Sulfate Soil Management Plan, Appendix F – Erosion Sediment Control Plan (ESCP), Appendix I – Fauna Management Plan (FMP), Appendix G – Ground Water Management Plan (GWMP), Appendix D – Vegetation Management Plan.</p>	<p>The applicant has provided numerous management plans (being the same as those submitted for the Stage 1 bulk earthworks under DA15/1026).</p> <p>Specific comments on the management plans have been provided later in this report and applicable conditions have been applied.</p>
<p>(2) Construction Environmental Management Plan (CEMP)</p> <p>All future applications are to include draft stage specific CEMPs that detail measures to address the impacts of construction including, but not limited to: erosion and sediment control (in accordance with Managing Urban Stormwater-Soils & Construction Version 4, Landcom 2004, or the latest version); protection of fauna (generally in accordance with the Fauna</p>	<p>Appendix J – CEMP</p>	<p>As noted, the applicant has provided a CEMP for the proposed subdivision (being the same as that submitted for the Stage 1 bulk earthworks under DA15/1026).</p> <p>Applicable conditions have</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>Management Plan - Cobaki Lakes PPR 2009); groundwater and acid sulfate soils; and, protection of trees and vegetation to be retained (generally in accordance with the Vegetation Management Plan, Cobaki Lakes PPR 2009).</p>		<p>been applied with regard to updating the management plan to incorporate Precinct 6.</p>
<p>(3) Restoration Plans</p> <p>Draft detailed regeneration and revegetation plans for each Rehabilitation and Management Precinct as detailed in the Site Regeneration and Revegetation Plan (SRRP) are to be prepared as per the SRRP.</p> <p>These detailed plans for each Rehabilitation and Management Precinct, as well as the Revised Saltmarsh Rehabilitation Plan and Freshwater Wetland Rehabilitation Plan are to include, but not be limited to:</p> <ul style="list-style-type: none"> a. performance objectives detailing measurable performance and completion criteria; b. Detailed planting species list, composition and density for each vegetation community and, for EECs to be rehabilitated, this is to include ground, mid and canopy species and species composition must be benchmarked against a reference EEC community; c. Details on creek bank erosion management; d. timing and responsibilities; and e. developer maintenance period reflecting completion criteria. 	<p>Appendix E – Site Regeneration and Revegetation Plan</p>	<p>As noted, the applicant has provided a SRRP for the proposed subdivision (being the same as that submitted for the Stage 1 bulk earthworks under DA15/1026).</p> <p>Applicable conditions have been applied with regard to updating the management plan to incorporate Precinct 6.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>(4) Buffer Management Plan</p> <p>The draft stage specific Buffer Management Plans are to be prepared as per the Overview Buffer Management Plan - Cobaki Lakes - Preferred Project Report (James Warren & Associates 2009) including, but not limited to, rehabilitation and revegetation strategies, bushfire protection measures, weed management, fencing, biodiversity and water quality monitoring and reporting.</p>	<p>Appendix E – Site Regeneration and Revegetation Plan, Appendix D – Vegetation Management Plan.</p>	<p>The applicant has incorporated buffer management provisions within the SRRP, as requested by Council.</p> <p>Applicable conditions have been applied with regard to updating the management plan to incorporate Precinct 6.</p>
<p>(5) Flora and Fauna Monitoring Plan</p> <p>Updates to the Flora and Fauna Monitoring Report are to be provided in accordance with the draft outline to be approved by the Director-General.</p>	<p>Appendix I – Fauna Management Plan</p>	<p>Approval of the Flora and Fauna Monitoring Plan was granted by the Director-General in December 2016, subject to a number of amendments to be made to the Plan.</p>
<p>C5 Groundwater and Acid Sulfate Soils Assessment</p> <p>(1) In order to ensure the protection of groundwater quality and the water quality of Cobaki Creek and Broadwater, a detailed Acid Sulfate Soils (ASS) assessment and ASS Management Plan (ASSMP), if required, addressing groundwater and acid sulfate soils must be submitted prior to issue of the construction certificate for the central open space and prior to issue of future precinct earthworks construction certificates. The ASS assessment report must be carried out generally in accordance with the ASSMAC Guidelines (1988) by a suitably qualified</p>	<p>Appendix K – Acid Sulfate Soil Management Plan, Appendix G – GWMP.</p>	<p>As noted, the applicant has provided numerous management plans for the proposed subdivision.</p> <p>Applicable conditions have been applied with regard to updating the management plan to incorporate Precinct 6.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>person and must contain the following information, as a minimum:</p> <ul style="list-style-type: none"> a. A plan showing the locations of all monitoring and test points (boreholes, test pits, wells/groundwater sampling, soils sampling, surface water sampling, monosulfides sampling etc); b. Plots of water level and quality with time; c. Spatial and depth distribution of ASS soils, corrected to include TAA plus oxidisable sulphur, and using the ASSMAC recommended action level (>18 mols H+/t) for the site. This should also address the inferred soft ASS marine clays present beneath the sand ridge; d. Typical treatment levels/distribution of AASS and PASS soils on site (where investigated), to current/correct standards; e. A detailed ASSMP with actions for determining ASS conditions ahead of excavation, handling of groundwater levels and quality, detailed management procedures for surface waters and flood routing, interaction (short and long term) of the groundwater with surface water in order to prevent the formation of monosulfides, materials evaluation and handling, materials balance, stockpile treatment, validation testing, monitoring systems with trigger levels, contingency actions, protection for structural elements, evaluation of off-site impacts etc. 		

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>(2) All future applications where the use of groundwater or the interception of the groundwater table is proposed, the proponent, after consulting with the NSW Office of Water, is to submit detailed Site Water and Groundwater Management and Monitoring Plans, supported by baseline groundwater monitoring conducted for an appropriate period, for the approval of the relevant consent authority prior to the issue of a construction certificate.</p>		
<p>C6 Stormwater Management</p> <p>(1) A detailed stormwater management plan must be submitted with each project/development application for subdivision of each precinct in the concept plan generally in accordance with the Stormwater Quality Concept Plan - Cobaki Lakes Development- September 2010 Revision 02- Yeats. The Stormwater Management Plan must address and outline measures, based on Water Sensitive Urban Design Principles which address impacts on the surrounding environment, drainage and water quality controls for the catchment at construction, maintenance and operational stages. The stormwater management plans are to be submitted to the satisfaction of the Council following consultation with the DECCW, NSW Office of Water and Industry and Investment (Fisheries).</p> <p>(2) Each stormwater management plan is to include groundwater considerations, a detailed design layout plan for the preferred stormwater treatment train showing location, size and key functional elements of each part of the system. MUSIC modelling, or equivalent, must be undertaken to</p>	<p>Appendix F – ESCP, Appendix S –Stormwater Quality Management Plan (SQMP)</p>	<p>The applicant has provided a stormwater quality management plan for the proposed subdivision.</p> <p>Following a number of discussions between Council and the applicant, Council officers are now satisfied that an appropriate stormwater design can be achieved for the proposed subdivision of P6&7.</p> <p>Appropriate conditions of consent has been applied requiring detailed stormwater design prior to the issue of a Construction Certificate.</p> <p>Specific comments on this matter have been provided later in this report.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>demonstrate appropriate water quality objectives are being achieved.</p> <p>(3) All future project/development applications for subdivision of each precinct in the concept plan are to demonstrate, through the provision of monitoring and adaptive management plans and commitments, that any proposed surface water/stormwater pollution reduction devices will be monitored to determine their pollutant removal efficiencies and the need for further treatment of drainage to ensure the preservation of water quality in Cobaki Creek and Cobaki Broadwater.</p>		
<p>C7 Geotechnical Assessments</p> <p>(1) In order to ensure the stability of development lots, a detailed geotechnical assessment preliminary geotechnical assessment prepared by a suitably qualified person must be submitted with each future development application for subdivision. The assessments must, at a minimum, include the following:</p> <ul style="list-style-type: none"> a. A geotechnical map of the site clearly showing ground surface contours, geotechnical engineering soil types and geotechnical hazards. The delineation of hazards should include hazard locations and possible hazard impact areas. That map should be occupied by an explanatory text describing the nature and delineation of soil types and hazard types. The map and text should be prepared by a suitably experienced geotechnical practitioner; and b. A synthesis site plan clearly showing ground surface contours 	<p>Appendix H – Geotechnical Investigation</p>	<p>As noted, the applicant has provided a Geotechnical Report for the proposed subdivision. An assessment has been undertaken and applicable conditions have been applied.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>and the locations of all test pits, boreholes and monitoring wells drilled on the site to date.</p> <p>(2) Any hillside construction must be in accordance with 'Some Guidelines for Hillside Construction and Practice', Appendix G of Landside Risk Management by Australian Geomechanics 2002.</p>		
<p>C8 Bushfire Assessment</p> <p>In order to ensure the protection of property and assets, a detailed bushfire assessment and management plan, prepared by a suitably qualified person, must be submitted with each future project/development application for subdivision. The assessment must, at a minimum, demonstrate consistency with the requirements of Planning for Bushfire Protection 2006. All asset protection zones must be clearly specified on the Plan of Development and all affected lots are to be encumbered to this effect with a Section 888 instrument under the NSW Conveyancing Act 1919.</p>	<p>Appendix L – Bushfire Threat Assessment Report & BAL Plan</p>	<p>As noted by the applicant, a Bushfire Threat Assessment Report and BAL Plan have been provided.</p> <p>The POD's incorporate BAL levels for those allotments affected, noting that a Deferred Commencement Condition has been applied to amend the BAL levels to correctly reflect those identified on the BAL Plan and to note that all allotments should be maintained as Inner Protection Areas.</p> <p>The POD identifies the allotments that are required to comply with bushfire construction standards.</p>
<p>C9 Flooding and Climate Change</p> <p>(1) In order to ensure the protection of life and property during a flood event, a comprehensive flood assessment of the site must be submitted with the first</p>	<p>Appendix V – Extent of Flood Map & Flood</p>	<p>As noted, the applicant has provided a map of Flooding</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>project/development application for residential subdivision. The flood assessment must have regard to the following elements to determine the new flood planning level for Cobaki Estate:</p> <ul style="list-style-type: none"> a. a sea level rise scenario of 0.90 metres; b. a 10% increase in rainfall intensity for sensitivity testing; c. the detailed flood modelling results from the Tweed Valley Flood Study; and d. consideration of freeboard of 0.5 metres. <p>(2) All future applications for each stage of development are to incorporate any re-calibrations of the Tweed Shire Council flood model.</p> <p>(3) A preliminary development landform for the entire site is to be provided with the first project/development application for residential subdivision to allow comprehensive flood modelling to be carried out, but not in such a way as to preclude necessary modifications to land forms in subsequent stages of development.</p> <p>(4) All future applications for residential subdivision shall provide an updated Design Flood Level Map showing peak flood levels for local and regional flood events at 0.1m contours and a detailed flood impact assessment for all flood liable land.</p>	<p>Technical Memo</p>	<p>extent in relation to the proposed subdivision. Specific comments in relation to flooding have been provided later in this report and applicable conditions have been applied.</p>
<p>C10 Affordable Housing</p> <p>The proponent shall provide, with the first application for residential subdivision, a study to determine the need for affordable housing provision for the Cobaki Estate site.</p>	<p>N/A – This study has previously been</p>	<p>As noted by the applicant, it is considered that the</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>The study shall address the following:</p> <ul style="list-style-type: none"> a) The likely future demographics of the population of the Cobaki Estate site and immediate locality by household type, income, employment and tenure; b) The need for affordable housing both for rental and purchase in the Cobaki Estate site and immediate locality; c) A plan showing possible location/s of affordable housing on the Cobaki Estate site in the various precincts; and, d) Investigation of mechanisms for the provision of affordable housing, including any role for community housing providers or the potential use of Voluntary Planning Agreements. <p>The proponent is to consult with Tweed Shire Council and Housing NSW Centre for Affordable Housing in the preparation of the study.</p>	<p>completed as part of the first applications for residential subdivision within Cobaki Lake Estate.</p>	<p>provisions of Condition C10 have already been addressed by DA10/0800 (P1&2).</p>
<p>C11 Traffic Management</p> <p>In order to ensure that the capacity of the surrounding external road network in both Queensland and New South Wales is not exceeded, each future project/development application for subdivision must be accompanied by a detailed traffic assessment in accordance with the RTA's <i>Guide to Traffic Generating Developments</i>. The traffic assessment must take into account both the additional traffic from the Cobaki Estate development as well as the cumulative impacts of any new developments in the Tweed Shire and the Gold Coast City Council area.</p> <p>All traffic assessments undertaken that</p>	<p>Appendix N – Traffic Impact Assessment</p>	<p>As noted, the applicant has provided a Traffic Impact Assessment for the proposed subdivision.</p> <p>Specific comments on this Report have been provided later in this report and applicable conditions have been applied.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>reveal traffic impacts requiring mitigation on the Queensland road system shall be referred to Queensland authorities for comment. Traffic management works required by the development on the Queensland side of the State's border shall be undertaken in accordance with the requirements of the Queensland authorities and/or deeds with those authorities.</p>		
<p>C12 Road Traffic Noise Impact Assessment</p> <p>In order to determine appropriate noise attenuation requirements adjacent to the Cobaki Parkway, a road traffic noise impact assessment must be undertaken in accordance with RTA guidelines as part of each project/development application for residential subdivision. Details of noise attenuation measures (buffers, mounds, acoustic walls, construction standards) are to be provided as part of each project / development application for residential subdivision.</p>	<p>Appendix Q – Noise Impact Assessment</p>	<p>As noted, the applicant has provided a Noise Impact Assessment for the proposed subdivision.</p> <p>Specific comments on this Report have been provided later in this report and applicable conditions have been applied, including a Deferred Commencement Condition requiring the POD's to be updated to adequately identify allotments requiring acoustic walls and allotments requiring additional construction methods on the second storeys of dwellings</p> <p>.</p>
<p>C13 Open Space</p> <p>All future applications for subdivision are to demonstrate the provision of an adequate area of active and passive open space in accordance with Council's minimum requirements.</p>	<p>Appendix A – Subdivision Plans, Appendix O – Master Landscape Strategy & Sandridge Landscape Guidelines, Appendix P – Open Space</p>	<p>As noted, the applicant has provided a number of open space / landscaping documents for the proposed subdivision.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
	Masterplan	Specific comments on this Report have been provided later in this report and applicable conditions have been applied.
<p>C14 Restrictions on Cats</p> <p>All future development applications must demonstrate that the keeping of cats within the Cobaki Lakes site shall be totally prohibited and that all residential lots are to be encumbered to this effect with a Section 88B instrument under the <i>NSW Conveyancing Act 1919</i>.</p>	Noted	Condition C14 is considered to be addressed by way of a suitable condition of consent requiring an 88B Instrument for the prohibition of cats across all allotments within the P6&7 subdivision.
<p>C15 Cultural Heritage Management Plan</p> <p>All future applications for each stage of development are to demonstrate the implementation of the recommendations of the Cultural Heritage Management Plan, including the requirement for site specific management strategies for each of the identified sites of cultural heritage significance as they relate to the area of the application.</p>	Appendix M – Aboriginal Cultural Heritage Report	<p>The applicant has provided an Aboriginal Cultural Heritage report with the subdivision application.</p> <p>The land associated with the P6&7 subdivision does not include any cultural heritage parks.</p> <p>As such, Condition C15 is not considered to apply to this application.</p>
<p>C16 Bus Network</p> <p>All future applications for each stage of development for residential subdivision are to ensure that adequate provision has been made for public transport in accordance with</p>	Appendix N – Traffic Impact Assessment. As	As noted, the applicant has proposed bus stops along

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>the Cobaki Lakes Access Network Plan and Potential Bus Route Revision EE, dated 23 September 2010.</p>	<p>per Concept Plan MP06_0316 Public buses will run along Cobaki Parkway and Sandy Lane. As required bus stop location is provided on Cobaki Parkway. Refer Appendix A. Pedestrian Facilities and intersection treatments for Roads 22 and Cobaki Parkway will be addressed at Construction Certificate design stage.</p> <p>Internally, an access route for bus access to the future school has been provided. A future bus stop / school setdown will be constructed on the School lot as part of future application for development of the school.</p> <p>Providing bus stops as 300 – 400m intervals along all 18m road is not a requirement of MP06_0316.</p>	<p>Cobaki Parkway and Sandy Lane, as required by Condition C16.</p> <p>C16 is considered to be a minimum requirement for bus services (given that the detail design of future residential land was unknown at Concept Plan stage).</p> <p>Despite several requests for the identification of bus stops along the main internal road, the applicant has repeatedly declined this request.</p> <p>Accordingly, a Deferred Commencement Condition has been applied requiring the identification of bus stops and associated easements on the POD's.</p> <p>Further detail in this regard is provided later in the report.</p>
<p>C17 Contamination Assessment</p> <p>A Stage 2 Contamination Assessment is to be prepared for Precincts 10 and 17. Each Stage 2 Contamination Assessment is to identify any contamination on site and provide for appropriate mitigation measures in accordance with the provisions of <i>State Environmental Planning Policy No.55 Remediation of Land</i>.</p>	<p>Section 3.5 of the Statement.</p>	<p>Condition C17 is not considered applicable to the proposed P6&7 subdivision, with contamination identified in Precincts 10 and 17 only.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
<p>C18 Tweed Shire Council Development Consents</p> <p>Future project/development applications for each stage of development are to outline the status of Tweed Shire Council development consents DA 92/315, DA 94/438, DA S94/194, DA 96/271, DA S97/54, DA K99/1124 or DA 1262/2001 and include a detailed description of how these consents relate to the application.</p>	<p>Appendix X – Consolidated Concept & Project Approval Conditions</p>	<p>The proposed development area is located over existing old consents. An applicable condition of consent will be applied requiring the applicant to reconcile the old consents prior to the issue of a Construction Certificate.</p>
<p>C19 Biodiversity Offsets</p> <p>(1) Details of biodiversity offsets for the loss of Swamp Sclerophyll Endangered Ecological Community on the site must be submitted with any development application for works in Precinct 6.</p> <p>(2) Total offsets for Swamp Sclerophyll on Coastal Floodplain must be as follows:</p> <ul style="list-style-type: none"> a. 6.77ha on-site in accordance with the approved Revised Ecological Assessment, April 2013; plus b. additional lands¹ either on-site and/or off-site to compensate for the loss of the offset (as a result of 06_0316 MOD 1), of an area as agreed with OEH. <p>¹ Note: The department has noted that using the biobanking calculator, this offset could be in the order of 16 hectares.</p>	<p>Subject to Modification – Condition C19 is currently the subject of active modification with the NSW Department of Planning. Mod #3 approvals is required to comply with this. A relevant condition is requested to address this issue.</p>	<p>The matter of EEC offsetting is currently being reviewed under Concept Plan Mod 3 and more recently Mod 9, whereby the applicant is seeking a reclassification of EEC.</p> <p>Mod 3 and Mod 9 are yet to be determined by the Department of Planning. The matter will have been resolved prior to any bulk earthworks taking place for P6&7 (under DA15/1026).</p>
<p>C20 Future Applications for Subdivision and Roadways</p> <p>All future applications which involve the creation of new roads are to identify whether the subdivision will be serviced by</p>	<p>N/A – The proposal does not include recycled water provision. Refer</p>	<p>As noted by the applicant, the proposal does not incorporate any recycled water provisions.</p>

Concept Plan Approval Requirements for Future Applications	Proponent Comments	Council Comments
recycled water. Where recycled water is proposed to service the subdivision, the application is to demonstrate that appropriate provision is made within the road reserve for all necessary easements and services, without reducing road pavement widths set out in the Tweed Shire Council Development Control Plan 2008. Where necessary to accommodate the services, and despite any recommendations for servicing and verge / road reserve width in the Cobaki Estate Development Code or the Tweed Shire Council Development Control Plan 2008, appropriate wider verge and road reserve are to be provided.	Appendix U.	In the event that the developer is successful in obtaining a licence by IPART for a private water / wastewater scheme to service the Cobaki development, an amendment to DA16/0056 will be required, at which point Condition C20 will be triggered.
<p>C21 Commercial Land Uses</p> <p>All future application for development in Precinct 5 are to demonstrate the gross floor area for all retail premises in the Town Centre will not exceed 10,000m² and the gross floor area for business and office premises within the Town Centre will not exceed 3000m²</p> <p>All future applications for development in the Southern Special Purpose Precinct are to demonstrate that land uses will be generally in accordance with Figures 6 and 7 of the Modification Report prepared by DAC Planning Pty Ltd, dated 11 July 2017.</p>	N/A – The proposal is not for development in Precinct 5 of the Southern Special Purpose Precinct.	Condition C21 is not considered applicable to the proposed P6&7 subdivision. Any future development of the Town Centre or Southern Special Purpose Precinct will trigger the provisions of Condition C21.

Statement of Commitments

The Concept Plan approval incorporates a number of Commitments made by the developer with regard to the delivery of the project. The applicant has noted that “...*this staged application is consistent with the approved Statement of Commitments*”, providing a list of the supporting documents in relation to the subdivision of Precincts 6 & 7.

Appropriate conditions of consent have been applied with regard to Commitments associated with the proposed works or any impacts arising from such works.

Development Code

As noted above, Condition C2 of the Concept Plan approval requires that all future project / development applications for residential subdivision or the construction of dwellings / commercial premises must demonstrate consistency with Part B of the Cobaki Development Code. The table below provides an assessment of the proposed subdivision against the Development Code's subdivision controls.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
5.1 Precinct Plan (1) Submit a precinct plan with the first Development Application for subdivision of each precinct.	The precincts are identified within the subdivision plan under Appendix A .	The applicant has provided plan for the proposed staged subdivision of part Precinct 6 and part Precinct 7. Council officers have some minor concerns with the subdivision layout, which have been noted in a PCC condition requiring amended plans. The abovementioned concerns are set out in detail later in this report.
(2) Provide a permeable, hierarchical street pattern that relates to the original topography, and facilitates 'way' finding.	The design of proposal provides collector road connections which largely for a spline and perimeter with future connection through the remainder of the Cobaki development. Access to Cobaki Parkway is restricted to one of the collector roads. Local access streets provide internal circulation and permeability within the proposal.	The proposed subdivision layout is considered to provide an acceptable street pattern, which facilitates way finding.
(3) Provide a main street, focal point and	The urban design of proposal provides the	The subdivision of P6&7 is bounded by the Central

Development Code - Subdivision Controls	Proponent Comments	Council Comments
identifiable public domain.	central open space area, local parks and the fauna corridor as focal points within the subdivision with roads aligned to maximise the effect of these features upon entry and navigation through the development. The landscape design incorporates elements to establish a well identified public domain through the use of co-ordinated streetscape plantings.	<p>Open Space (COS) corridor to the south west, Cobaki Parkway to the north east and the east west fauna corridor to the north west.</p> <p>The layout provides for an 18.5m wide main road running centrally through the subdivision and alongside the COS, with 18.5m wide cross roads to provide appropriate links.</p> <p>The proposal incorporates Neighbourhood and Local Park along the main central road as focal points within the residential development.</p>
(4) Provide lot sizes and configurations to support a range of housing types that integrate into the street pattern.	The design of Part Precinct 6 and part Precinct 7 incorporates a range of lot sizes between 300m ² to 650m ² to facilitate a range of housing product which are consistent with the Development Code. The Precinct Plan provides an appropriate mix of lot types and sizes throughout the site.	<p>The proposal incorporates a variety of lot sizes and housing product type, which has been spread throughout the development site.</p> <p>The configuration and lot sizes are considered to be acceptable in terms of providing a good range of housing type, which will integrate well in the urban streetscape.</p>
(5) Identify an open space network.	The Plans identifies the open space network. Refer Appendix A . Further details and discussion if the open space network are	The application has incorporated a site wide Open Space Master Plan, which identifies the open space for P6&7, as well as the surrounding stages of

Development Code - Subdivision Controls	Proponent Comments	Council Comments
	provided in the Open Space Masterplan under Appendix P .	future development. Further detail on the proposed open space is provided later in this report.
(6) Connect parks, public spaces, main streets, services, infrastructure and natural features.	The proposed subdivision provides appropriate distribution and connection of open space within the site. Each area of open space is also provided with pedestrian connections through the internal pedestrian and cycleway links.	The proposed development is considered to be acceptable in terms of connectivity for future residents. Along with the road network, the proposal incorporates pedestrian and cycle connections throughout the subdivision.
(7) Use streets and footpaths to define the edges to public open spaces.	Each area of open space is edged by street frontage.	As required by Council's DCP Section A5 (Subdivision Manual), all open space provisions are edged by local street frontages.
(8) Provide water sensitive urban design within appropriate open spaces.	Water sensitive urban design is provided to treat stormwater, stormwater management measures are detailed within the Stormwater Quality Management Plan under Appendix S .	The proposal incorporates water sensitive urban design in its stormwater treatment. Council officers are satisfied with the proposed location of stormwater treatment devices, subject to conditions of consent.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
(9) Identify the proposed staging of subdivision within each precinct.	A Staging Plan is included on the subdivision plans under Appendix A .	The applicant has provided plans which clearly identify the proposed staging of the subdivision (over 11 stages).
(10) Identify an estimated development yield.	The development yield of the proposal is shown on the subdivision plans. The proposal will yield a total of 452 residential lots with 29 of these nominated as plex allotments which will deliver a total of 481 dwellings.	The applicant has identified the overall yield, being 452 residential allotments. The revised subdivision design incorporates 33 Plex allotments, with the development providing for a total of 485 dwellings.
<p>5.2 Relationship to Tweed Shire Council Development Control Plan 2008, Section A5 - Subdivision Manual</p> <p>(1) This Code adopts the following provisions of Tweed Development Control Plan 2008 Section A5 – Subdivision Manual,</p> <ul style="list-style-type: none"> - Part A5.4 Urban Subdivision Design Guidelines & Development Standards, except where varied by this Code - Part A5.6 The Assessment & Decision making Process - Part A5.7 Implementing a Subdivision Consent - Appendix A - Subdivision Works - Development Design Specifications - Appendix B - Subdivision Works - Development Construction 	These matters are addressed in Section 3.12 of this Statement as well as in the plans and reports accompanying the application.	A detailed assessment of the proposal against the provisions of DCP A5 is provided later in this report.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
<p>Specifications</p> <ul style="list-style-type: none"> - Appendix C - Subdivision Works, Compliance Certification except as otherwise approved by Council - Attachment C1 - Subdivision Works, Compliance Certificate - Appendix D - Subdivision Infrastructure Inspections - Appendix E - Recommended Buffers - Development Design Specifications and Development Construction Specifications referred to in Appendix A and Appendix B above. <p>except where varied by the departures contained in Section 5 of this Code.</p>		
<p>5.3 Town Centre and Neighbourhood Centre Subdivision Design Controls</p>		<p>Not applicable – the proposed subdivision does not incorporate any Town Centre or Neighbourhood Centre provisions.</p>
<p>5.4 General Subdivision Controls</p> <p>(1) Provide self-contained residential neighbourhoods with links to schools, retail, and community uses, and open space.</p>	<p>The design of proposal provides a defined neighborhood area with good linkages to the central open space and retail, commercial, entertainment and education facilities in the future Town Centre to the north.</p>	<p>The proposed subdivision is considered to be acceptable in terms of providing a self-contained residential neighbourhood with direct links to a future school site within P6 and surrounding open space.</p> <p>Provisions for retail and community uses will be accommodated with the future development of the Town Centre / Neighbourhood Centres.</p>

Development Code - Subdivision Controls	Proponent Comments	Council Comments
(2) Provide pedestrian and cycle networks to connect each residential neighbourhood and to provide connections to public open space, public transport nodes, and education and community facilities.	Pedestrian and Cycle networks are provided through and around the proposal.	As noted previously, the proposal is considered satisfactory in terms of providing pedestrian and cycle networks, which will provide connection to public open space, public transport nodes, education and community facilities.
(3) Increase residential density close to town and neighbourhood centres, schools, major open space and other public facilities.	Residential density is increased in proximity to the Town Centre by concentrating smaller allotments and a number of plex sites in that vicinity.	This control is not considered to be applicable to the proposed subdivision, with there being a degree of separation from the Town Centre. P6&7 does incorporate 33 Plex sites (7.5% of the development), which does increase the density of the proposal slightly.
(4) Provide street designs with generally no more than 3 corners from the furthestmost lot to the neighbourhood entrance.	The proposed design is consistent with this principle which is intended to demonstrate the appropriate use of road hierarchy and permeability.	The design of the street layout is considered to satisfy the provisions of the control/
(5) Design local streets to discourage through-traffic.	Local access streets are of appropriate	The design of the local road network has been suitably amended to ensure that

Development Code - Subdivision Controls	Proponent Comments	Council Comments
	width and design to discourage through traffic in accordance with the principles of road hierarchy.	appropriate traffic calming devices are in place to discourage through traffic and excessive speed.
(6) Limit vehicle movements to less than 3000 vehicles per day per neighbourhood entrance road (300 – 600 dwellings). Larger neighbourhoods may require a neighbourhood collector road to cater for vehicular movements (refer to Figures 5.2.1 and 5.2.2).	Each neighborhood access road will service less than 300 dwellings.	The proposal complies with this control, by way of incorporating 452 allotments (485 dwellings). The maximum road width used is 18.5m, which is a Low Volume Neighbourhood Connector Road, which provides for 3000 – 5000 vehicles per day.
(7) Provide a diverse range of orthogonal residential lots and frontages with minimal use of battle-axe lots.	No battle axe lots are proposed. The proposal provides a range of lot sizes and frontage widths	The majority of the lots within the subdivision are rectangular in shape. No battle axe allotments are proposed. The layout provides for a variety of lot sizes and road frontage widths.
(8) Comply with the minimum lot sizes and frontages for complying development in Table 5.4.1.	Each lot has been designed to comply with the minimum lot size and frontage controls contained in Table 5.4.1 of the Development Code.	The proposed subdivision is considered to comply with the minimum lot size and road frontage requirements of the Development Code.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
(9) On lots where a zero lot line(s) are permitted, the lot's zero lot alignment shall be shown on the approved plan of development. Section 88B instruments shall be created for the subject and adjoining lots to indicate the zero lot line location, and all other controls in Section 5.6.	The zero lot line locations are marked on the Plan of Development and shall be attached to the Land Title by way of an 88B Instrument.	The POD's identify the alignment of all zero lot lines. An appropriate condition of consent has been applied with regard to the creation of an 88B instrument for the applicable allotments.
(10) Lots nominated for terrace dwellings must have a secondary road frontage to a lane.	No terrace dwellings are proposed.	Not applicable – there are no terrace dwellings proposed in this stage of the development.
(11) Easements for public infrastructure (sewerage, stormwater drainage) within residential lots are to provide for at least one infrastructure connection to a public road or reserve.	No easements within residential lots are proposed.	Initially it was proposed that no public infrastructure easements would be required within residential allotments. However, the latest sewer design incorporates sewer infrastructure within some allotments, which will require easements. An appropriate Deferred Commencement Condition has been applied to ensure compliance with this control.
(12) An on-street parking plan is required with the first development application for subdivision to demonstrate the availability of on-street car parking for each nominated lot type at the rates	The on street car parking for each of the lots has not been shown as each lot with exception of lots 21, 22, 106, 229 &	As noted by the applicant, on-street parking is achievable for the majority of the proposal, with the exception of five

Development Code - Subdivision Controls	Proponent Comments	Council Comments
<p>specified in Table 5.4.1. The requirement and acceptance of designated on street car parking may be varied by a DRP Pre- Approval Certificate.</p>	<p>230 will provide for the required 1 on street car parking space adjacent the lot frontage. Lots 21, 22, 106, 229 & 230 are nominated as requiring a dedicated onsite visitor space on the plans of development. Refer Appendix B – POD.</p>	<p>allotments that cannot provide sufficient road frontage.</p> <p>These five allotments have been identified on the POD's as requiring a dedicated on-site visitor car space.</p> <p>This control is considered satisfied.</p>
<p>5.5 Nominated Lot Provision</p> <p>(1) Mark on a plan of development lots which are intended for the future development of a particular dwelling type (traditional detached dwellings, zero-lot dwellings, terrace dwellings, SOHO dwellings, plex dwellings, mews dwellings and shop top dwellings) and on which that nominated dwelling type may be undertaken as complying development.</p>	<p>All residential lots are nominated for the intended dwelling types to facilitate Complying Development under Part A of the Code.</p>	<p>Dwelling types have been nominated on the POD's for all residential allotments, which may be undertaken as complying development (subject to compliance with the POD, Development Code etc).</p>
<p>(2) Mark on a plan of development the number of bedrooms per dwelling and per lot.</p>	<p>This provision was intended to facilitate the upfront payment of Developer Contributions to expedite and simplify the Complying Development process, which under the Code includes certain multi dwelling housing development. The final Code provides for contributions to be charged in the normal "per lot" method at the subdivision stage</p>	<p>Council concurs with the applicant's comments on the original intention of this control.</p> <p>All residential allotments in the POD's have been nominated as a minimum of three bedrooms, which satisfies this control.</p> <p>With regards to contributions, the proposed subdivision will be charged at a per lot rate. It is noted that the Development Code has provisions for CDC's to</p>

Development Code - Subdivision Controls	Proponent Comments	Council Comments
	<p>with any additional contributions to be collected by Certifiers or Council at the CDC or DA stage where applicable. All allotments are nominated as a minimum of 3 bedrooms on the plans of development. Refer Appendix B – POD.</p>	<p>impose a condition on a certificate requiring the payment of monetary contributions.</p> <p>However, the Code only makes reference to S94's under the EP&A Act. There is no provision for certifiers to apply S64 contributions under the Water Management Act or the Local Government Act. As such, the 33 allotments nominated as Plex lots will be charged at the higher density rate at subdivision stage.</p>
<p>(3) Lots less than 300m² and/or less than 15m frontage (measured at the frontage building line) must not have a cross fall and slope to the rear greater than 10%.</p>	<p>Grades within proposal are generally flat. All lots are considered to comply with this control.</p>	<p>P6&7 incorporates lots 300m² or greater, however, frontages can come down as low as 10m. The applicant has indicated that such lots are compliant with the crossfall and slope controls. A condition of consent has been applied to ensure compliance with this control.</p>
<p>(4) Lots for townhouse dwellings, villa dwellings, apartment, tourist accommodation or seniors housing must be nominated as development lots on the plan of development.</p>	<p>No Development Lots are proposed.</p>	<p>This control is not considered to be applicable to P6&7, given that Development Lots are not proposed.</p>

Development Code - Subdivision Controls	Proponent Comments	Council Comments
(5) Development Lots must be provided with roads, drainage (including downstream drainage to a lawful point of discharge), service connections and easements sufficient to cater for the future development of the development lot and the surrounding land.	No Development Lots are proposed.	This control is not considered to be applicable to P6&7, given that Development Lots are not proposed.
5.6 Plan Of Development Requirements (1) A Plan of Development must be submitted with all future development applications for subdivision on the site and include the following information where applicable. a) location and width of Asset Protection Zones; and	The asset protection zone required for the proposed subdivision is accommodated by the alignment of Cobaki Parkway and other roads within the development with exception of the school allotment. Accordingly no APZ is required to be shown on any proposed residential lots. Refer Appendix L – Bushfire Threat Assessment Report & BAL Plan .	The applicant has submitted a Bushfire Threat Assessment Report, which concludes that the Cobaki Parkway will accommodate the Asset Protection Zone (APZ) from the vegetation to the north east of P6&7. A 30m wide APZ is applicable to the school site, as shown on the Subdivision Plans. The Bushfire Threat Assessment Report notes that all residential lots should be maintained as Inner Protection Zones (IPA's). A Deferred Commencement Condition has been applied requiring the POD's to be amended accordingly.
b) Level of construction required for dwellings/buildings adjacent to Asset Protection Zones in accordance with Planning for Bushfire Protection 2006	The level of construction for each block has been	The POD's nominate the Bushfire Attack Level (BAL) requirements for applicable lots.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
and Australian Standard 3959 – 1999 – Construction of Building in Bushfire Prone Areas; and	nominated on the plan of development. Refer Appendix B – POD .	A Deferred Commencement Condition has been applied requiring some POD's to be amended to update the BAL levels to correspond with the BAL Plan in the Bushfire Threat Assessment Report. There is a general note in the POD's identifying the allotments that require construction as per AS3959.
c) type of development permissible or intended for each lot, for example, zero lot housing, plex housing; and	The development type intended for each proposed residential lot is nominated on the POD. Refer Appendix B – POD .	This control has been satisfied, with the type of development permissible as Complying development identified on the POD's for each residential allotment.
d) fill and finished floor levels requirements on flood prone lots in accordance with the requirements of Tweed Shire Council's Development Control Plan – Section A3 – Flood Liable Land (or any replacement document); and	The minimum finished floor levels are shown on the POD. This complies with the requirements of Section A3 of the TDCP 2008. Refer Appendix B – POD .	The applicant has satisfied this control, providing a general notation in the POD's, which identifies the fill and finished levels for flood purposes.
e) all necessary easements and Section 88B instruments; and	Currently know easements such as for pad mount	An applicable Deferred Commencement Condition has been applied, requiring

Development Code - Subdivision Controls	Proponent Comments	Council Comments
	transformers are identified on the plan of development. Refer Appendix B – POD . A condition of consent is requested permitting amended POD's to be provided to Council for endorsement should additional easement be identified as requested during detailed design for construction.	all easements to be identified on the POD's. It is considered appropriate to require applicable 88B instruments to be required at Subdivision Certificate stage, which is Council's consistent approach for subdivision applications.
f) the type of development nominated on each lot which may be undertaken as Complying development and proposed number of bedrooms; and	The development types for each residential lot are nominated on the POD. All allotments are nominated as a minimum of 3 bedrooms on the plans of development. Refer Appendix B – POD .	The applicant has identified on the POD's the type of development for each allotment which may be undertaken as Complying development. The POD's also note that each dwelling must have a minimum of three bedrooms.
g) the location of development lots and the maximum number of dwellings and bedrooms intended in the future development of the development lot; and	No Development Lots are proposed.	This control is not considered to be applicable to P6&7, given that Development Lots are not proposed.
h) setbacks for all buildings and structures, including garages; and	Setbacks are provided on the POD, Refer Appendix B – POD .	The POD's identify the required setbacks for all building types.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
i) zero lot line locations if relevant; and	Zero lot lines are provided on the POD, Refer Appendix B – POD .	The POD's incorporate zero lot line locations for this type of development.
j) for plex, mews and development lots, the maximum number of dwellings and bedrooms per lot; and	Plex dwellings and bedroom numbers are provided on the POD, Refer Appendix B – POD .	Plex lots and the number of bedrooms per lot have been identified on the POD's. Mews and Development Lots are not proposed in P6&7.
k) the location of preferred vehicular street access and driveway locations for Zero-lot, Terrace, Soho, Shop Top, Plex and Mews Dwelling lots; and	The driveway locations are provided on the POD, Refer Appendix B – POD .	The POD's incorporate the driveway locations for the proposed zero lots, traditional dwellings and Plex lots.
l) the location of private open space for each lot; and	The private open space locations are provided on the POD, Refer Appendix B – POD .	The POD's identify private open space areas for each allotment.
m) the type of fencing to be provided to roads and other public land frontages; and	The fencing types to roads and public spaces are provided on the POD, Refer Appendix B – POD .	The POD's incorporate fencing requirements (including acoustic fencing requirements where applicable) for all residential allotment boundaries.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
n) the lots on which 3 storey building height is permissible other than those which may be determined on merit by DRP; and	The lots on which three storey buildings are intended (other than those which may be determined on merit by DRP) are provided on the POD, Refer Appendix B – POD .	There are no three storey building identified on the POD's for P6&7.
o) the location of public open space; and	The location of public open space is provided on the POD, Refer Appendix B – POD .	The POD's identify the location of public open space areas within the P6&7 subdivision.
p) the location of specific landscaping to meet the design guidelines for each precinct; and	Landscaping provision forward of fencing lines is specified on the POD. Refer Appendix B – POD .	The POD's incorporate landscaping requirements, referencing the Landscape Masterplan, which will be approved under this consent, as it applies to P6&7.
q) gateways or entry statements; and	No specific entry statement is required by the POD.	As noted by the applicant, no gateways or entry statements are proposed.
r) a reference to the Design Guidelines which apply to the precinct.	A reference to the Design Guidelines is included on the POD. Refer Appendix B – POD .	The general notes within the POD incorporate a reference to the Design Guidelines.

Development Code - Subdivision Controls	Proponent Comments	Council Comments
<p>5.7 Design Guidelines</p> <p>The Design Guidelines outline criteria for the following issues:</p> <ul style="list-style-type: none"> - Architectural and streetscape design and facades - Fencing - Built form - Dwelling height, massing and siting - Privacy - Landscaping in the private realm - Materials and colours - Environmental sustainability - Procedures for submission of application for assessment by the Design Review Panel 	<p>The Design Guidelines for the proposal are included under Appendix C.</p>	<p>An assessment of the Design Guidelines has been undertaken against the provisions of the Development Code. The proposed guidelines associated with DA16/00566 are considered satisfactory.</p>
<p>5.8 Design Review Panel</p> <p>A Design Review Panel (DRP) must be established and operated by the owner of the land the subject of the first subdivision Development Application lodged pursuant to the Code.</p>	<p>The Design Review Panel has been established to administer the Code and Design Guidelines.</p>	<p>As noted by the applicant, a Design Review Panel has been established.</p>
<p>5.9 Location and Easements for Services</p> <p>(1) Where possible, all services must be located in footpaths in accordance with Figure 5.9.1 (of the Code).</p>	<p>The proposed road widths are consistent with the Development Code, which will facilitate the location of services within the intended verge area.</p>	<p>Whilst the proposed subdivision largely complies with this control, there are instances where the proposed sewer infrastructure is located within allotments.</p>

Development Code - Subdivision Controls	Proponent Comments	Council Comments
<p>2) Where services are located within a residential lot an easement is to be provided over that infrastructure that has at least one connection to a public road or reserve.</p>	<p>With exception of the pad mount transformer location already identified. It is not proposed to locate services within residential lots. No other easements on residential lots are proposed.</p>	<p>The SEE is considered to be incorrect in this regard. As noted above, sewer infrastructure is located within some residential allotments.</p> <p>A Deferred Commencement Condition has been applied requiring the easements for such infrastructure to be identified on the POD's</p>

SECTION D – MAIN ASSESSMENT

CONSIDERATIONS UNDER SECTION 83B OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

83B Concept development applications

The provisions of Clause 83B of the EP&A Act (formerly known as “Staged” development applications) are as follows:

- (1) *For the purposes of this Act, a **concept development application** is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*

The original application for DA15/1026 incorporated the conceptual design of the Masterplan for the subdivision of Precincts 6 to 12 and Stage 1 bulk earthworks. The application also identified the staging for the future subdivision of the various precincts.

The subject application is Stage 2 (part Precinct 6) and Stage 3 (Part Precinct 7) of the approved Masterplan.

- (2) *In the case of a staged development, the application may set out detailed proposals for the first stage of development.*

The original application for DA15/1026 provides for Stage 1, being staged bulk earthworks across Precincts 6 to 12. The subject application is Stage 2 (part Precinct 6) and Stage 3 (Part Precinct 7) of the approved Masterplan.

- (3) *A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*

The original development application was specifically lodged as a Staged development application (now known as a Concept development application).

- (4) *If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*

- (a) *consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*
- (b) *the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.

The original approval granted consent to the conceptual design of the Masterplan and provide detailed conditions of consent for Stage 1 of the development – staged bulk earthworks across Precincts 6 – 12. The original approval requires future subdivision stages of the development to have separate consent, consistent with the approved Masterplan.

The subject application is Stage 2 (part Precinct 6) and Stage 3 (Part Precinct 7) of the approved Masterplan.

- (5) *The consent authority, when considering under section 79C the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

Note. *The proposals for detailed development of the site will require further consideration under section 79C when a subsequent development application is lodged (subject to subsection (2)).*

The assessment of the subject application has included a detailed assessment of potential impacts (as required under section 79C) associated with the proposed subdivision of Precincts 6&7.

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

The subject site incorporates a number of zonings under two LEP's. Although the majority of the development is within land zoned under TLEP 2014, the Environmental Protection Areas (shown in orange in Figure 6 below) adjoining each of the precincts associated with this application are zoned under TLEP 2000. As such, assessment against the relevant clauses of both instruments is noted below.

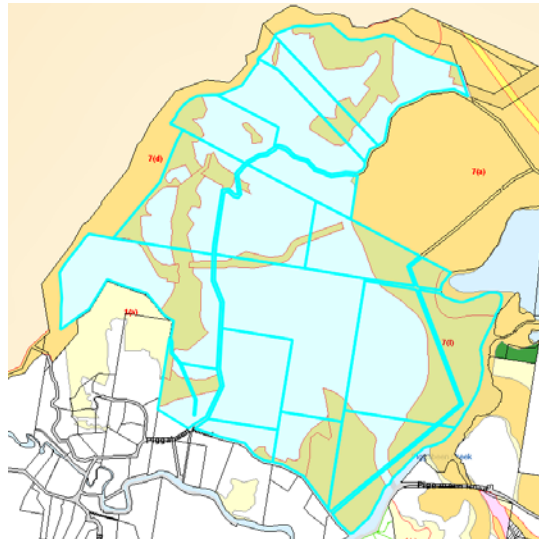


Figure 6 – Environmental Protection zoning across the site

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is *“the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced”*. Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire’s environmental and residential amenity qualities.

The development application is considered suitably in keeping with the above. The Cobaki site has been identified for a new community for many years. The proposed development is considered to be consistent with State Government and Council strategic planning.

Clause 5 - Ecologically Sustainable Development

Clause 5 of the LEP relates to ecologically sustainable development. The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*.

Appropriate conditions of consent have been applied, which will ensure that the proposed development will not significantly impact upon the surrounding environment or locality. As such, the proposed development is considered to meet the provisions of Clause 5 of the LEP.

It is also noted that IPART have approved a Special Rate Levy for future residents of the Cobaki development, which will ensure funding for the maintenance of the Environmental Protection Land in perpetuity.

Clause 8 – Consent Considerations

- (1) This clause specifies that the consent authority may grant consent to development (other than development specified in Item 3 of the table to clause 11) only if:
- (a) *it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
 - (b) *it has considered that those other aims and objectives of this plan (the TLEP) that are relevant to the development, and*
 - (c) *it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*

In this instance, the subject site is zoned 7(a) Environmental Protection (Wetlands and Littoral Rainforests), 7(d) Environmental Protection (Scenic Escarpment) and 7(l) Environmental Protection (Habitat), the primary objectives of which are outlined in Clause 11 assessment below. The proposed development is considered to be consistent with the primary objectives of each zone.

Other relevant clauses of the TLEP have been considered elsewhere in this report and it is considered that the proposed development generally complies with the aims and objectives of each.

The proposal is not considered to contribute to any unacceptable cumulative impact, with impacts upon the environment being managed through management plans, compensatory habitat and restoration.

Clause 11 - Zone objectives

As noted above, the proposed development incorporates residue allotments within the 7(a), 7(d) and 7(l) zones. An assessment of the proposal against each zone objective is noted below.

Zone objectives for Zone 7 (a) Environmental Protection (Wetlands and Littoral Rainforests)

Primary objectives

- *to identify, protect and conserve significant wetlands and littoral rainforests.*
- *to prohibit development which could destroy or damage a wetland or littoral rainforest ecosystem.*

Secondary objectives

- *to protect the scenic values of wetlands and littoral rainforests.*
- *to allow other development that is compatible with the primary function of the zone.*

Zone objectives for Zone 7 (d) Environmental Protection (Scenic/Escarpment)

Primary objectives

- *to protect and enhance those areas of particular scenic value to the area of Tweed, minimise soil erosion from escarpment areas, prevent development in geologically hazardous areas, and maintain the visual amenity of prominent ridgelines and areas.*

Secondary objective

- *to allow other development that is compatible with the primary function of the zone.*

Zone objectives for Zone 7 (l) Environmental Protection (Habitat)

Primary objectives

- *to protect areas or features which have been identified as being of particular habitat significance.*
- *to preserve the diversity of habitats for flora and fauna.*
- *to protect and enhance land that acts as a wildlife corridor.*

Secondary objectives

- *to protect areas of scenic value.*
- *to allow for other development that is compatible with the primary function of the zone.*

Comment:

The proposed development does not incorporate any proposed works within the environmental zones (i.e. the proposed P6&7 subdivision is incorporated within the R1 General Residential zone under TLEP 2014). Appropriate conditions of consent have been applied to ensure the protection of any adjoining environmental land. As such, the proposed development is considered to be consistent with the objectives of each of the zones under TLEP 2000.

Clause 20 – Subdivision zones 1(a), 1(b), 7(a), 7(d) and 7(l)

The minimum allotment size in the 7(a), 7(d) and 7(l) zones is 40 hectares. In this regard, the applicant has noted the following:

Figure 7 – Plan 6400-298B residual lot subdivision of Precincts 6 & 7 based on the current titles

2. **Plan 6400-307** (as noted in Figure 8 below), relates to the required subdivision of the overall site (as required by the Project Approval), whereby the Central Open Space and Environmental Protection Land will be created on separate allotments.

The applicant has advised that the registration of Plan 6400-307 will occur prior to the first stage of the development of P6&7. Subsequently, Plan 6400-298B will then need to be amended to accord with the titles created under Plan 6400-307.

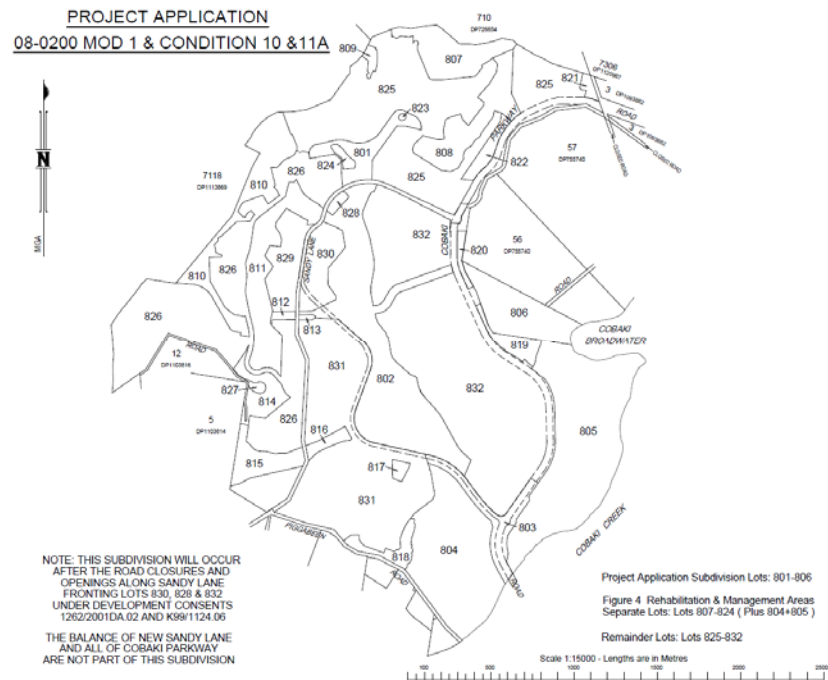


Figure 8 – Plan 6400-307 subdivision of the site under the Project Approval

3. **Plan 6400-308** (as noted in Figure 9 below), will be the result of the amendment to Plan 6400-298B to follow the titles created under the Project Approval subdivision.

Plan 6400-308 will incorporate Lot 619 in relation to the proposed subdivision and all other residue allotments resulting from DA16/0056.

It is noted that plan below does not include the separate allotments for sewer pump stations, stormwater bioswales etc. The applicant has acknowledged that Plan 6400-308 will need to be amended to reflect these additional allotments.

It is considered that the abovementioned subdivision sequencing will create the appropriate separate allotments for land zoned Environmental Protection (i.e. not for agricultural or residential purposes), thereby satisfying the provisions of Clause 20.

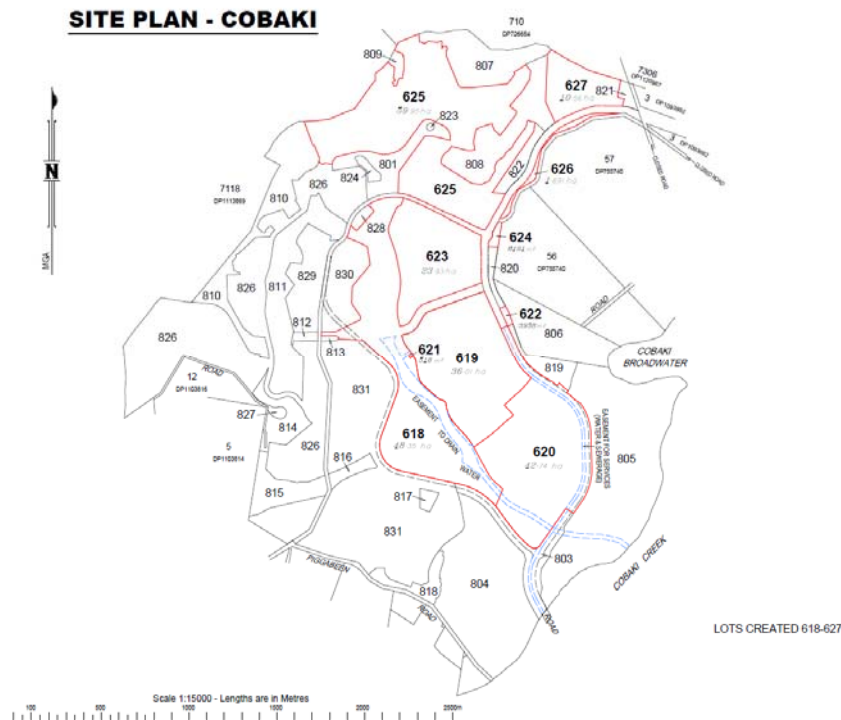


Figure 9 – Plan 6400-308 residue lot subdivision of Precincts 6 & 7 created by the Project Approval subdivision

Clause 25 – Development in Zone 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and on adjacent land

The objective of Clause 25 is to ensure that wetlands and littoral rainforests are protected in the environmental and economic interests of the area of the Tweed. The provisions of Clause 25(3) are as follows:

- (3) *Consent must not be granted to the carrying out of development on land within Zone 7 (a) or on land adjacent to land within Zone 7 (a) unless the consent authority has taken into consideration:*
 - (a) *the likely effects of the development on the flora and fauna found in the wetlands or littoral rainforest, and*
 - (b) *the potential for disturbance of native flora and fauna as a result of intrusion by humans and domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing, and*
 - (c) *a plan of management showing how any adverse effects arising from the development can be mitigated, and*
 - (d) *the likely effects of the development on the water table, and*
 - (e) *the effect on the wetlands or littoral rainforest of any proposed clearing, draining, excavating or filling.*

The applicant has noted that the “...proposed subdivision does not impact upon any land within the 7(a) zone. Rather these areas will ultimately be subdivided off as residual parcel(s). The subdivision of these lands onto residual parcels to enable dedication to relevant authorities is a commitment of the overall Cobaki Lakes development made as part of MP06_0316”.

With regard to Clause 25(3), the applicant notes that the “...subdivision works are to be undertaken in accord with a range of management plans addressing flora and fauna, erosion and sediment control, ground water, etc. These plans are included as part of this application and have been prepared in accord with the commitments of MP06_0316”.

Comment:

As noted previously, the proposed subdivision of P6&7 does not extend into the land zoned 7(a). It should be noted that the proposed development will be conditioned to be undertaken in accordance with a number of environmental management plans, as required by the Concept Plan approval and associated Statement of Commitments. As such, it is considered that the provisions of Clause 25 have been satisfied.

Clause 26 - Development in Zone 7(d) Environmental Protection (Scenic Escarpment)

The objective of Clause 26 is to ensure that the development of land within Zone 7(d) minimises soil erosion and will preserve or enhance the scenic quality of the land and the locality. The provisions of Clause 26(3) are as follows:

- (3) *Consent must not be granted to the erection of a building on land within Zone 7 (d) unless the consent authority is satisfied that:*
 - (a) *the scale, height and location of the building, and*
 - (b) *the colour, type and reflectivity of materials to be used, will preserve or enhance the scenic quality of the land and the locality.*

The applicant has noted that the “...subdivision does not impact upon any land within the 7(d) zone. Rather these areas will ultimately be subdivided off as residual parcel(s) as part of the development application”.

Comment:

As noted previously, the proposed P6&7 subdivision does not incorporate any works within the 7(d) land, nor does it propose any buildings. As such, it is considered that the provisions of Clause 26 have been satisfied.

Clause 28 - Development in Zone 7(l) Environmental Protection (Habitat)

The objective of Clause 28 is to protect wildlife habitat from the adverse impacts of development. The provisions of Clause 28(4) are as follows:

- (4) *The consent authority must not grant consent to development on or adjacent to land within Zone 7 (I) unless it has taken into consideration:*
- (a) *the likely effects of the development on the flora and fauna found in the locality, and*
 - (b) *the potential for disturbance of native flora and fauna as a result of intrusion by humans and domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing, and*
 - (c) *a plan of management showing how any adverse effects arising from the development are to be mitigated.*

The applicant has stated that the “...subdivision is to be undertaken in accord with a range of management plans addressing flora and fauna, erosion and sediment control, ground water, etc”.

Comment:

As stated previously, the proposed subdivision of P6&7 does not incorporate any works within the 7(I) land. It should be noted that the proposed development will be conditioned to be undertaken in accordance with a number of environmental management plans, as required by the Concept Plan approval and associated Statement of Commitments. As such, it is considered that the provisions of Clause 28 have been satisfied.

Clause 31 – Development Adjoining Water Bodies

The objectives of Clause 31 are to protect waterways, provide adequate public access to waterways and minimise impact on development from known biting midge and mosquito breeding areas.

The proposed subdivision of P6&7 will be conditioned to be undertaken in accordance with a number of management plans, as required by the Concept Plan approval and associated Statement of Commitments, noting that mosquito management is triggered by the proposed development (as per the Statement of Commitments). As such, it is considered that the provisions of Clause 31 have been satisfied

Clause 34 - Flooding

Clause 34 of the TLEP provides objectives to minimise future potential flood damage by ensuring only appropriate compatible development occurs on flood liable land. Refer to flooding comments under the TLEP 2014 assessment later in this report.

Clause 35 - Acid Sulfate Soils

Clause 35 relates to Acid Sulfate Soil (ASS) management. Council’s GIS indicates that the site is classified as Class 2, 3 and 5 soils. Refer to ASS comments under the TLEP 2014 assessment later in this report.

Clause 39 – Remediation of Contaminated Land

Clause 39 relates to the remediation of any contaminated land prior to development occurring. Refer to comments under the SEPP 55 assessment and the TLEP 2014 assessment later in this report.

Clause 39A Bushfire Protection

The objective of Clause 39A is to minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological and environmental assets. Refer to detailed comments under the TLEP 2014 assessment later in this report.

Clause 44 – Development of land within likely or known archaeological sites

Clause 44 requires the consent authority to consider an assessment of how the proposed development would affect the conservation of the site and any relic known or likely to be located at the site. Refer to detailed comments under the TLEP 2014 assessment later in this report.

Clause 54 – Tree Protection Order

The proposed subdivision of P6&7 does not propose the removal of vegetation. Tree removal was addressed under the assessment of DA15/1026, with applicable offsetting requirements applied as conditions of consent. Clause 54 is considered satisfied.

Tweed Local Environmental Plan 2014

Part 1 Preliminary

1.2 Aims of Plan

The aims of this plan as set out under Section 1.2 of this plan are as follows;

- (1) This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*

- (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
- (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*
- (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
- (g) *to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*
- (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The proposed development is considered to be generally in accordance with the aims of this plan, subject to conditions of consent. The Cobaki site has been identified for a new community for many years. The proposed development is considered to be consistent with State Government and Council strategic planning.

1.4 Definitions

The proposed development for Stage 2 and 3 of the approved Masterplan for Precincts 6 to 12 is considered to be 'subdivision' works, as defined by the EP&A Act 1979:

subdivision of land means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition

The proposed subdivision of part Precinct 6 and part Precinct 7 is located within the R1 General Residential zone and some pump stations / bio swales are located within the COS, which is zoned RE2. Subdivision is permitted with consent in both zones.

Part 2 Permitted or prohibited development

2.1 Land use zones

As noted above, the proposed development area for Stages 2 and 3 are zoned R1 General Residential and RE2 Private Recreation (in relation to the non-residential allotments for pump stations / bioswales etc within the Central Open Space corridor) under the TLEP 2014.

2.3 Zone objectives and Land Use Table

The objectives of the **R1 General Residential** zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the provision of tourist accommodation and related facilities and services in association with residential development where it is unlikely to significantly impact on amenity or place demands on services beyond the level reasonably required for residential use.*

The proposed subdivision is considered to be generally consistent with the above objectives, by virtue of providing additional housing for the community, with a variety of housing types and densities.

The objectives of the **RE2 Private Recreation** zone are:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The proposed infrastructure associated with the subdivision is considered to be generally consistent with the above objectives, by virtue of incorporating the Central Open Space area (approved under the Project Approval), which will be utilised as a combined drainage corridor / structure open space area.

Overall, the proposed subdivision is considered to be consistent with the R1 and RE2 zone objectives.

2.6 Subdivision – consent requirements

Clause 2.6 applies to land which may be subdivided, subject to development consent. DA16/0056 is seeking development consent for the subdivision of part Precinct 6 (Stage 2) and part Precinct 7 (Stage 3) of the Masterplan approved under DA15/1026, thereby

satisfying the provisions of the clause. The proposed subdivision complies with lot size requirements of the Development Code.

Part 4 Principal development standards

4.1 Minimum subdivision lot size

The land within the Cobaki development site is not mapped as being subject to a minimum lot size and as such, Clause 4.1 is not applicable to DA16/0056. Lot size requirements are addressed under the Cobaki Development Code.

Part 5 Miscellaneous provisions

5.5 Development within the coastal zone

This clause states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following;

- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
 - (i) *maintaining existing public access and, where possible, improving that access, and*
 - (ii) *identifying opportunities for new public access, and*

The proposed subdivision is not considered to have any impact on public access to foreshore areas.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
 - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
 - (ii) *the location, and*
 - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

The proposed development is permissible on the subject site, with appropriate conditions of consent being recommended to minimise / mitigate any potential impacts resulting from the proposed civil works associated with the subdivision.

- (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
 - (i) *any significant overshadowing of the coastal foreshore, and*

- (ii) *any loss of views from a public place to the coastal foreshore,*

The proposed development is not considered to impact on the amenity of the foreshore by virtue of overshadowing or a loss of views. The subject application is considered to be acceptable having regard to the above considerations.

- (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

The proposed development is not considered to compromise the scenic qualities of the coast as it represents an acceptable development on appropriately zoned land.

- (e) *how biodiversity and ecosystems, including:*

- (i) *native coastal vegetation and existing wildlife corridors, and*
- (ii) *rock platforms, and*
- (iii) *water quality of coastal waterbodies, and*
- (iv) *native fauna and native flora, and their habitats, can be conserved, and*

The subject application has been reviewed by Councils' Natural Resource Management Unit, with it being determined that the proposal is acceptable subject to the application of appropriate conditions of consent.

- (f) *the cumulative impacts of the proposed development and other development on the coastal catchment.*

Subject to the imposition of the recommended conditions of consent, the proposed development is not considered to result in an unacceptable cumulative impact on the coastal catchment.

This clause goes on to further state;

- (3) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*
 - (a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

As outlined elsewhere in this report, the proposal is not considered to impede or diminish the right of access of the public either to or along the public foreshore.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea,*

or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

The proposed subdivision incorporates connection to Council's reticulated sewer system.

- (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

Stormwater management is detailed elsewhere in this report, with no untreated stormwater being discharged to the adjoining creek or nearby Cobaki Broadwater. Having regard to this, it is considered that the subject application would be in accordance with the above controls, subject to conditions of consent.

- (d) the proposed development will not:*
- (i) be significantly affected by coastal hazards, or*
 - (ii) have a significant impact on coastal hazards, or*
 - (iii) increase the risk of coastal hazards in relation to any other land.*

The proposed development is considered to be acceptable having regard to coastal hazards as outlined above due to its nature, permissibility and the spatial separation between the site and coastal hazards at this location.

5.9 - Preservation of Trees or Vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

The proposed development does not seek consent for removal of vegetation. All land forming and vegetation clearing for this component of the site has been addressed under DA15/1026 and must be managed in accordance with the appropriate environmental management plan.

Whilst it is noted that clause 5.9 has now been repealed as a result of the new SEPP (Vegetation in Non-Rural Area) 2017, there are savings provisions in the SEPP for applications lodged prior to 25 August 2017.

5.10 – Heritage conservation

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Tweed,*

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

(c) to conserve archaeological sites,

(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

As noted above, the subject site currently incorporates two Cultural Heritage Parks (CHP's) within Precinct 8. Any development within these CHP's must comply with the Cultural Heritage Management Plan (CHMP) approved under the Concept Plan approval.

The proposed P6&7 subdivision does not involve any works within the P8 CHP's, thereby satisfying the provisions of this clause. The future subdivision of P8 and the remainder of P7 will need to address Clause 5.10 in detail.

5.11 - Bush fire hazard reduction

Although the subject site is bushfire prone, the proposed development does not trigger referral to the NSW Rural Fire Service (RFS), given that overall Concept Plan was approved under the Transitional Part 3A provisions of the EP&A Act..

The proposed subdivision has been supported by a bushfire assessment report and Bushfire Attack Level (BAL) plan. The POD's will have a notation on allotments with specific BAL requirements, as well as APZ and Australian Standards construction requirements.

Although not required at this stage, the applicant was provided with an opportunity to incorporate a NSW Rural Fire Services (RFS) Bush Fire Safety Authority (BFSA) prior to the determination of this application. The applicant chose not to do so at this stage of the development, preferring to lodge a separate application with the RFS for a BFSA at a later stage. An appropriate condition of consent has been applied in this regard. If the BFSA requires any amendments to the subdivision design or BAL's etc, an amendment to DA16/0056 will be required.

Part 7 Additional local provisions

7.1 Acid sulfate soils

The subject site demonstrates Class 2, 3 and 5 Acid Sulfate Soils (ASS) in accordance with the provisions of this clause. The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

Council officers have undertaken a review of the documentation submitted with the application with regard to ASS within Precincts 7, 8 and 9. The applicant's ASS Management Plan (ASSMP) advises that *"...due to the revised elevations after placement of fill within these Precincts, Acid Sulfate Soils are not considered likely to be encountered during subdivisional work"*. However, the ASSMP does incorporate management procedures (liming rates) in the event that ASS are encountered.

It is acknowledged that a separate ASSMP for Precinct 6 (under DA10/0801) was approved by Council. Whilst DA10/0800 has since lapsed, Council officers are satisfied that the management of ASS is achievable within P6. The following condition of consent has been recommended, requiring the ASSMP to be amended so as to incorporate P6:

Prior to the issue of a Construction Certificate the Acid Sulfate Soils Management Plan (ASSMP) is to be amended to the satisfaction of Council's General Manager or delegate to incorporate provisions for Precinct 6 and reference the relevant management plans.

As such, the provisions of Clause 7.1 are considered to have been satisfied, subject to recommended conditions of consent.

7.2 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The provisions of Clause 7.2(3) require the consent authority to consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.*

Bulk earthworks associated with the proposed subdivision have been approved under DA15/1026. The proposed subdivision will incorporate earthworks associated with civil works required for the placement of infrastructure.

Council's Development Engineer has undertaken an assessment of the proposed development against the provisions of Clause 7.2, noting no objections, subject to conditions of consent.

7.3 Flood planning

The objectives of this clause are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

This clause goes on to further state that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) *is compatible with the flood hazard of the land, and*
- (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*
- (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Council's Development Engineer provided the following advice with regard to flooding:

"Council's DCP Section A3 requires that all residential subdivisional land (other than road and reserves) must be filled to the Design Flood Level, taking into consideration Climate Change.

Councils flood mapping indicated that the subject site has a DFL of RL 2.8m AHD (taking into consideration Climate Change), however the submitted Extent of Flood Mapping (Appendix V) indicates that localised flooding governs with the majority of Precinct 6 & 7 governed by a DFL of RL 2.9m AHD, except the upper reaches of the East-West Corridor near Cobaki Parkway which gets as high as RL 3.4m AHD. This has been reflected on the latest POD.

In regards to Section A3 requirements for Emergency Response Provisions, the proposal provides high level road evacuation route(s) to land located above the PMF to all allotments.

The submitted Flooding Technical memo (prepared by Arcadis, dated 7/11/2016) should be read in conjunction with Appendix V – Extent of Flood Mapping, as referenced in the amended SEE".

As noted later in this report, the proposed stormwater design will require amendments to the approved Central Open Space (COS) approval, so as to accommodate the proposed bio swales within the open space / drainage corridor. The revised stormwater design within the COS will need to be supported by an updated Flood Impact Assessment to ensure that the residential allotments within P6&7 remain flood immune.

Accordingly, the proposal is considered to satisfy the provisions of this clause, subject to conditions of consent.

7.4 Floodplain risk management

Clause 7.4(3) provides for the following:

- (3) *Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land:*
- (a) caravan parks,*
 - (b) correctional centres,*
 - (c) emergency services facilities,*
 - (d) group homes,*
 - (e) hospitals,*
 - (f) residential accommodation (except for dwelling houses, secondary dwellings or dual occupancies) on land in Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential,*
 - (g) residential care facilities,*
 - (h) tourist and visitor accommodation.*

As noted previously, the proposed subdivision has been designed to provide flood immunity for the future residents of Precincts 6&7 (which is zoned R1 General Residential). The POD's have been appropriately marked up to identify the required flood levels and minimum floor levels.

Having regard to the above advice, the proposal is considered to be in accordance with the provisions of Clause 7.4, subject to conditions of consent.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

Council's Development Engineer and Stormwater / Flooding Engineer have undertaken a detailed review of the proposed development with regard to stormwater management.

Council officers have liaised with the applicant on several occasions in an effort to be satisfied that the proposed stormwater design is achievable. Concerns were raised with regard to the proposed location of stormwater treatment (in the east west fauna corridor) and the potential lack of fall across the site to allow the stormwater treatment to be undertaken.

In response to Council's concerns, the applicant has amended the proposed subdivision to removal all stormwater treatment from the East-West fauna corridor and has also revised the overall stormwater design to comply with Council's requirements.

Further details in this regard are provided later in this report.

Subject to the imposition of the recommended conditions of consent, the proposal is considered to be acceptable with respect to the requirements of this clause.

7.9 - Development in areas subject to aircraft noise

This clause applies to development that:

- (a) is on land that:*
 - (i) is near the Gold Coast Airport, and*
 - (ii) is in an ANEF contour of 20 or greater, and*
- (b) the consent authority considers is likely to be adversely affected by aircraft noise.*

The subject site is located near the Gold Coast Airport, however Precincts 6&7 are not affected by any ANEF contours. Council's Environmental Health Unit assessed the proposed development with regard to Clause 7.9, noting that Precincts 6&7 are located outside of the ANEF for the airport.

7.10 - Essential Services

This clause outlines that consent must not be granted to development unless the consent authority is satisfied that essential services such as water, electricity, sewerage, stormwater drainage and vehicular access are available or that adequate arrangements have been made to make them available when required.

The subject application has been reviewed by Council's Development Engineer as well as the Water and Wastewater Unit with regard to the provision of essential services. As noted above, appropriate conditions have been applied to the effect that Council will be provided with sufficient information at PCC stage to be satisfied that the proposal is acceptable in terms of water, sewer and stormwater provisions.

Appropriate conditions of consent have been applied to ensure that the required services will be provided within the proposed subdivision.

Having regard to the above assessment, the subject application is considered to be generally in accordance with the provisions of the Tweed Local Environmental Plan 2014.

State Environmental Planning Policies

NCREP (LEP 2000 only)

Clause 15: Rivers, streams and wetlands

Potential exists for the adjacent Cobaki Broadwater to be adversely affected by runoff, erosion and sedimentation during the bulk earthworks phase of the development, although it is noted that no earthworks are proposed within the environmental zones that are triggering the NCREP assessment. In any case, the risk is able to be managed through a Construction Environmental Management Plan (CEMP) which is required by the Concept Plan approval. Appropriate conditions of consent have been applied in this regard.

Clause 29A: Natural areas and water catchment

Clearing is not proposed in environmental protection zones.

Clause 32B: Coastal Lands

The Coastal Policy contains actions to control impacts of development in the coastal zone. The relative impacts of the proposal are able to be mitigated construction techniques and management practices.

The site is not subject to coastal hazards such as beach erosion, as such this is not considered relevant.

SEPP No. 14 - Coastal Wetlands

SEPP 14 Wetlands exist adjacent to the overall Cobaki site. The provisions of the SEPP are not triggered by the proposed Stage 2 and 3 subdivision as there is no clearing, draining, filling or levee construction in the mapped SEPP 14 wetland.

SEPP No. 44 - Koala Habitat Protection

The potential impact of the overall development upon the subject site (with regard to SEPP 44) was addressed at the Concept Plan approval stage, with a Commitment that threatened fauna species be appropriately managed via the implementation of the approved SEPP 44 Assessment and Fauna Management Plan. Appropriate conditions of consent have been applied in this regard.

SEPP No. 55 - Remediation of Land

The applicant has made reference to the original Contamination Assessment (*Gilbert and Sutherland, May 2008*) undertaken for the Concept Plan approval, which identified two areas area of potential contamination in Precinct 17 and Precinct 10. The original assessment noted that Stage 2 Contamination Assessment would be required for both of these precincts. Figure 10 below identifies the potential contamination area within Precinct 10.

The proposal development will not alter or restrict the public's access to the foreshore reserve areas.

- (c) *Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability*

The proposal does not generate any additional opportunities to improve public access to foreshore reserve areas and the like.

- (d) *The suitability of the development given its type, location and design and its relationship with the surrounding area*

The proposed development is sited and designed in general accord with the relevant Council controls and is considered unlikely to create any form of adverse imposition upon the immediate area in terms of size, scale or design.

- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore*

The proposed subdivision is not considered impact on the amenity of the coastal foreshore. In particular there is considered to be no loss of views or overshadowing associated with this application.

- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities*

The proposal is unlikely to impact upon the scenic quality of the NSW coast.

- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats;*

Council's Natural Resource Management Unit have reviewed the application with respect to ecological matters and raised no objection, subject to the imposition of conditions of consent.

- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Par), and their habitats*

The proposal is unlikely to have an adverse impact upon marine environments or habitats, subject to the application of the recommended conditions of consent.

- (i) *existing wildlife corridors and the impact of development on these corridors,*

Appropriate conditions of consent have been applied to ensure the protection of existing wildlife corridors.

- (j) *the likely impact of coastal process and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards;*

The subject site is not located within an area affected by Coastal Erosion and is landward of the defined Coastal Erosion Zones. The development is unlikely to have an adverse impact upon Coastal Processes or be affected by Coastal Processes.

- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities;*

The proposal is not considered to cause any conflict between land-based and water-based activities.

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;*

The subject site does not have any identified cultural places within Precincts 6 or 7.

- (m) *likely impacts of development on the water quality of coastal waterbodies,*

The subject application is not considered to have any significant impact upon the water quality of coastal waterbodies, subject to the application of the recommended conditions of consent.

- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*

As noted above, no works are proposed within or immediately adjacent to the known CHP's.

- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities;*

Not applicable to the subject application.

- (p) *only in cases in which a development application in relation to proposed development is determined:*

- (i) *the cumulative impacts of the proposed development on the environment;*
 - and*

The proposed development is not considered to have a negative cumulative impact on the environment, subject to the imposition of recommended conditions of consent.

- (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

Not applicable to the subject application.

With regard to Clause 18 of the SEPP, The applicant has obtained a Master Plan Waiver from the Minister. The Waiver was issued on 22 February 2016, noting that “...*the master plan requirement has been waived considering the nature of the development proposed and that the objectives and controls contained in the Tweed Local Environmental Plan (2014), Tweed Development Control Plan 2008, the Major Development Project Approval MP06_0316 (as modified), section 79C of the Environmental Planning and Assessment Act 1979 and the matters for consideration in clause 8 of SEPP 71, are considered adequate to ensure this development is carried out with due regard to the aims of SEPP 71*”.

The proposal is generally consistent with the matters for consideration as it does not impede public access to the foreshore nor result in any unacceptable loss of view or overshadowing. The proposal has a minimal impact on flora or fauna and the proposed development will not impact upon known areas of Aboriginal significance. As such, the provisions of SEPP 71 are considered satisfied.

SEPP (Infrastructure) 2007

Clause 45 of this SEPP relates to the determination of applications involving development that is likely to affect an electricity transmission or distribution network. The application was forwarded to Essential Energy as required. A response from Essential Energy is noted later in this report.

Clause 104 of this SEPP relating to Traffic Generating Development outlines that this clause applies to development specified in Column 1 to the Table of Schedule 3 that involves the subdivision of land incorporating 200 or more allotments where the subdivision includes the opening of a public road.

Clause 104(3) sets out requirements that the consent authority must have consideration of before determining a development application, as follows.

- (3) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *give written notice of the application to RMS within 7 days after the application is made, and*

The proposal was referred to the NSW Roads and Maritime Services (RMS).

- (b) *take into consideration:*
 - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and*

As noted later in this report, the RMS is satisfied with the proposal and the associated Traffic Impact Statement.

- (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

Council officers and the RMS are satisfied with the proposal in terms of the efficiency of movement of people and freight.

- (iii) *any potential traffic safety, road congestion or parking implications of the development.*

Subject to conditions of consent, the proposed development is not considered to result in any potential traffic safety, road congestion or parking implications.

The proposed development is considered to be acceptable having regard to the provisions of this SEPP.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Coastal Management) 2016

The draft Coastal Management SEPP relates to areas of land comprised of the following coastal management areas:

- (a) *the coastal wetlands and littoral rainforests area,*
- (b) *the coastal vulnerability area,*
- (c) *the coastal environment area,*
- (d) *the coastal use area.*

Parts of the subject site being utilised for the proposed subdivision (Precinct 6&7) are located within the *Coastal Use Area* map associated with the draft SEPP. As such, the SEPP applies and the consent authority is required to have regard for the proposed development against the provisions of clause 15 and 16 of the draft SEPP.

15 *Development on land within the coastal use area*

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

(a) is satisfied that the proposed development:

(i) if near a foreshore, beach, headland or rock platform -maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and

The subject site is located approximately 8kms from the beaches and foreshore areas to the east.

(ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and

The proposed subdivision will have no impact upon existing views from public places to the foreshore.

(iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and

The proposed subdivision is not considered to have any adverse impact upon the visual amenity and scenic qualities of the coast.

(iv) will not adversely impact on Aboriginal cultural heritage and places, and

Cultural Heritage matters have been addressed elsewhere in this report.

(v) will not adversely impact on use of the surf zone, and

Being located approximately 8kms from the coast, it is not considered that the proposed subdivision will have any impact upon the surf zone.

- (b) *has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

Appropriate conditions of consent have been applied to mitigate any potential impacts on the surrounding environment arising from the proposed subdivision. The type, location, bulk, size and scale of the proposed development are considered to be suitable for the subject site.

16 *Development in coastal zone generally—development not to increase risk of coastal hazards*

- (1) *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Council officers are satisfied that appropriate conditions of consent have been applied to ensure that the proposed subdivision is not likely to cause an increased risk of coastal hazards on the subject site or surrounding locality.

Although the draft SEPP is not imminent or certain of being adopted in the very near future, Council officers are satisfied the proposed subdivision meets the provisions of the SEPP.

Draft Amendments to State Environmental Planning Policy 44 (Koala Habitat Protection) 2007

The draft amendments to SEPP44 include:

- *definitions of koala habitat;*
- *list of tree species;*
- *list of councils; and*
- *development assessment process.*

The draft amendments to SEPP 44 are not considered relevant to the proposed subdivision, given that the removal of vegetation is not proposed.

(a) (iii) Development Control Plan (DCP)

Tweed Development Control Plan

The Cobaki Development Code is to be read in conjunction with the following parts of the Tweed DCP.

A2 - Site Access and Parking Code

As noted previously, access to the site will initially be from the north via Boyd Street in Tugun. Boyd Street from the Motorway overpass and Cobaki Parkway (which is the main distributor road running through the site) have been approved under previous consents and construction certificates. At some point of the site's development, connection to Piggabeen Road (to the south) will occur, providing access to Kennedy Drive etc. Cobaki Parkway provides the main access to Precincts 6 to 12. Direct access off Cobaki Parkway to individual allotments is neither proposed nor supported.

Parking provisions, as required by the Cobaki Development Code have been addressed elsewhere in this report, noting that the POD's associated with the subdivision of P6&7 incorporate driveway access to individual allotments and on-street parking provisions.

DCP A2 is considered satisfied.

A3 - Development of Flood Liable Land

Council's Development Engineer and Flooding Engineer have raised no objections to the proposed development with regard to flooding, subject to conditions of consent.

A5 - Subdivision Manual

The proposed subdivision has been assessed against the applicable provisions of DCP A5, as noted below.

Stormwater Runoff, Drainage, Waterways and Flooding

Permanent stormwater quality facilities

Modelling of the site was undertaken using the 'Model for Urban Stormwater Improvement Conceptualisation (MUSIC)' as required in TSC Development Design Specification - D7 - Stormwater Quality - Section 7.13.3 'Music Modelling Parameters'. Council's Flooding & Stormwater Engineer has found the MUSIC modelling to be satisfactory.

Having worked through a number of engineering issues throughout the assessment process with the applicant, the remaining concerns relate to the engineering design of the proposed basins. Council's Flooding and Stormwater Engineer and Development Engineer have reviewed these designs and raised significant concerns that there is inadequate fall through these structures to ensure they remain free flowing from the inlet to the outlet, and that adoption of "bare minimum" design parameters is not appropriate on a greenfield site.

Council does not accept that the site is “constrained” in the context of the Water By Design Guidelines, as the constraint is the subdivision’s own bulk earthworks design, rather than external factors or boundary conditions (i.e. infill development sites). While cost implications of additional fill may be significant to the developer, it is not considered justification of poor stormwater design that will have cost implications for ongoing maintenance in perpetuity.

Following a meeting with the applicant’s engineering consultants, a revised SQMP has been prepared in consideration of the following Council specified minimum design criteria:

- Min 150mm freeboard between the invert of the outlet pipe (with concrete headwall and apron) and the invert level of the receiving open drain / swale.
- Min 500mm Filter Media within the bio basins.

Council’s Engineers have reviewed the revised SQMP, noting that they are now satisfied with the proposed design, subject to detailed design at Construction Certificate stage. An appropriate condition of consent has been applied in this regard.

Construction Phase (Erosion & Sediment Control)

The original application was supported by an Erosion and Sediment Control Plan (ESCP). This was updated following Council’s original Request for Further Information (RFI). Council’s third RFI requested further amendments to the ESCP. The applicant did not amend the Plan. Rather, it was requested that Council condition the approval such that the final ESCP is consistent with the final Subdivision Plans (Appendix A) and POD (Appendix B) Plans. An appropriate condition has been applied.

Operational Phase

The latest Stormwater Quality Management Plan (SQMP) proposes two types of bio-retention drainage (as shown in Figure 11 below) on site to overcome drainage constraints:

- Type 1 Saturated zone which integrate water storage in the transitional and drainage layers of the basin; and
- Type 3 Conventional which utilise a free draining transitional and drainage layer.

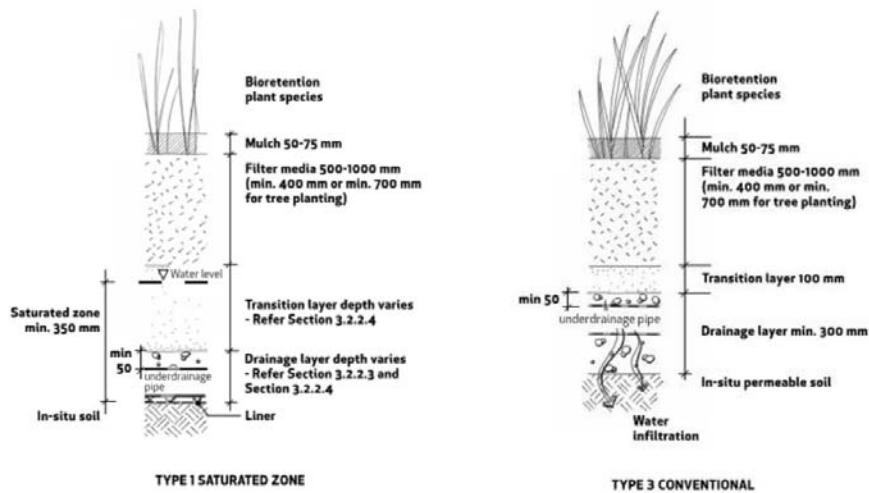


Figure 11 – Two types of Bio-Retention Drainage being proposed

As noted earlier, modelling of the proposed stormwater quality system was undertaken using MUSIC modelling, as required in Council's Design Specifications.

To ensure the integrity and durability of the treatment devices in the early stages of the development, it is proposed to turf the proposed bio-retention areas and install a geofabric mattress temporarily to cater for the house construction phase of the development.

Once the house construction phase reaches 90% completion for the contributing treatment device catchment, the temporary turf and geofabric mattress will be removed, and the bio-retention basin will be completed by the developer, with the nominated vegetation and surface works.

An appropriate condition of consent has been applied with regard to bonds and defect period requirements.

As noted previously, Council officers have had several discussions with the applicant with regard to the stormwater design. In order to accommodate proposed Bio Basins "E", "F" and "G" (shown in Figure 12 below) within the Central Open Space (COS), the Construction Certificate of the COS (C107 from Private Certifier) will have to be amended.

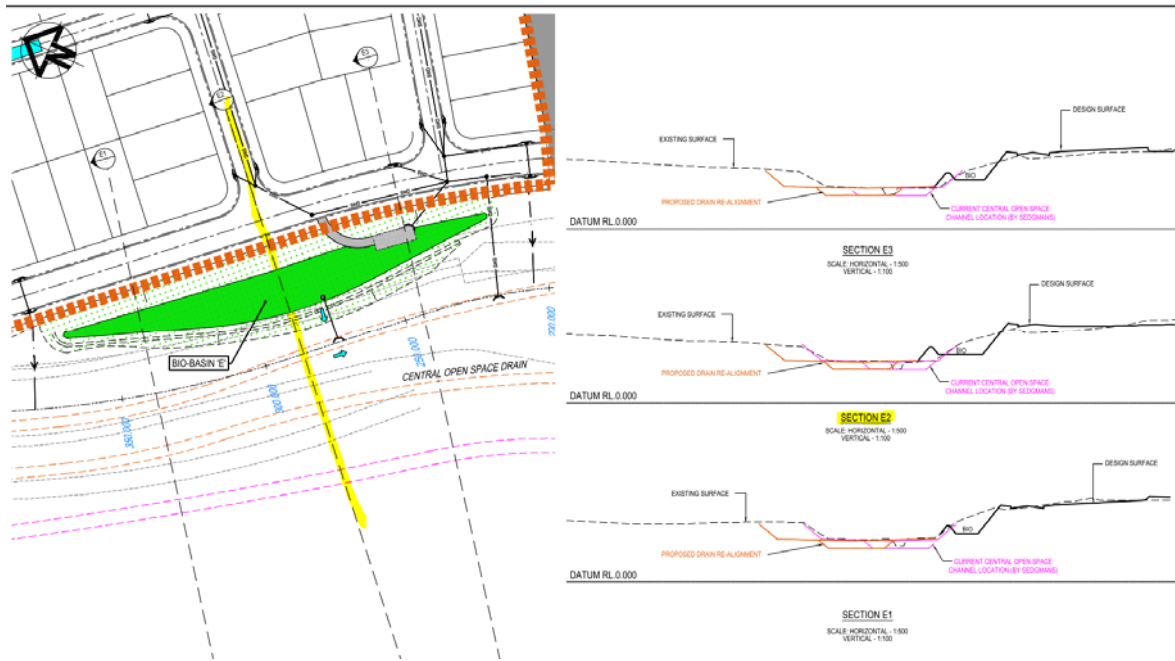


Figure 12 – Details for Bio Basins E, F and G

Council's Development Engineer considers this scenario to be acceptable and an appropriate condition has been applied, including the requirement for an updated hydraulic (flooding) assessment of the COS which considers the additional works within the COS.

Council's Development Engineer also noted that bio-basins on the eastern side of the site are proposed to drain to the eastern Cobaki Parkway swale via pipework proposed as part of Cobaki Parkway south, with new pipework proposed, where required (i.e. CC10/0717 will also have to be amended). Conceptually this outcome is considered acceptable. A condition has been applied requiring calculations to confirm the eastern swale and cross drainage of CC10/0717 is adequate.

Bio-retention Swales

The original Yeats SQMP associated with the Concept Plan proposed a bio-retention swale along Cobaki Parkway as well as the internal / bio-retention basins (as shown in Figure 13 below).



Figure 13 – Original Bio-Retention Swale locations (with the swale along Cobaki Parkway highlighted in yellow)

The swale along the Cobaki Parkway is no longer proposed for stormwater treatment, although a swale in this location may still be required to provide conveyance to the piped drainage under Cobaki Parkway.

Lawful point of discharge

The applicant's SQMP identifies that Precinct 6&7 is split into two distinct catchments discharging to two separate locations. These being:

- The western portion drains west to the central open drain and,
- The eastern portion drains east to the existing salt marsh.

The SQMP identifies that the *"...proposed drainage regime for Precinct 6 & 7 includes three key discharge areas, being the major drainage channel to the west, the fauna corridor to the north (which drains to the central open drainage channel), and Cobaki Parkway to the east which drains to the salt marsh"*.

Council's Development Engineer considers this to be acceptable; noting that the Fauna Corridor can be used to drain water from Precinct 6&7, but the corridor cannot be used for stormwater treatment, as was initially proposed by the applicant.

It should be noted that the applicant subsequently amended the design to provide for stormwater treatment outside of the East West fauna corridor.

Movement Network

Bus Routes and identification of Bus Stop locations on POD

Despite requests in all three of Council's RFI letters, the applicant has insisted that bus services to service the precincts would be limited to Cobaki Parkway and Sandy Lane (as shown in Figure 14 below). While this might comply with 400m radii (as the crow flies) for the majority of residential allotments within the precincts, the subdivision design allows for and should promote an internal bus route that provides a high level of service for potential public transport operators. It is accepted that route selection is outside of the control of the developer (as it is for Council); however the matter must be addressed in the subdivision approval. The argument that the concept approval only shows public bus routes on the arterial roads is not accepted, given the subdivision pattern and internal road layout for the various precincts was not known at the time.



Figure 14 – Circulation Plan for P6&7 (Proposed Bus Stops shown in Orange on Cobaki Parkway)

Council’s Manager Road & Stormwater notes that the identification of future bus stop locations (whether j-poles or bus shelters) is necessary for inclusion on POD, as it informs potential purchasers of adjacent allotments, and may involve the identification of easements for footpath widening to accommodate bus infrastructure. This has been detailed to the applicant in previous letters but has been largely disregarded. Council’s experience in other contemporary subdivisions is that if this issue is not properly addressed, it leads to Council having significant disputes with impacted landholders in the future when the time comes for the bus infrastructure to be installed, which may occur several years after dwellings are constructed.

A deferred commencement condition is recommended, and this approach has been flagged previously with the applicant.

Road Network/Horizontal/Vertical Alignment, Cross Section

A Traffic Impact Assessment (TIA) was submitted with the initial application. The TIA was subsequently amended to address Council’s first RFI letter.

As shown in Figures 15, 16 and 17 below, the TIA proposes road profiles and hierarchy for Precincts 6&7, which are considered to be compliant with TSC's standards.

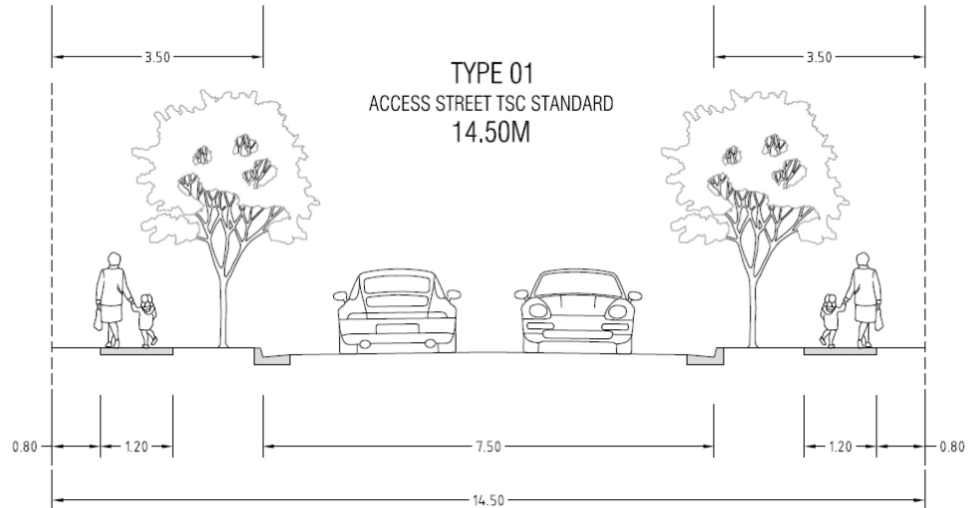


Figure 15 – Proposed Access Street (14.5m) Cross Section

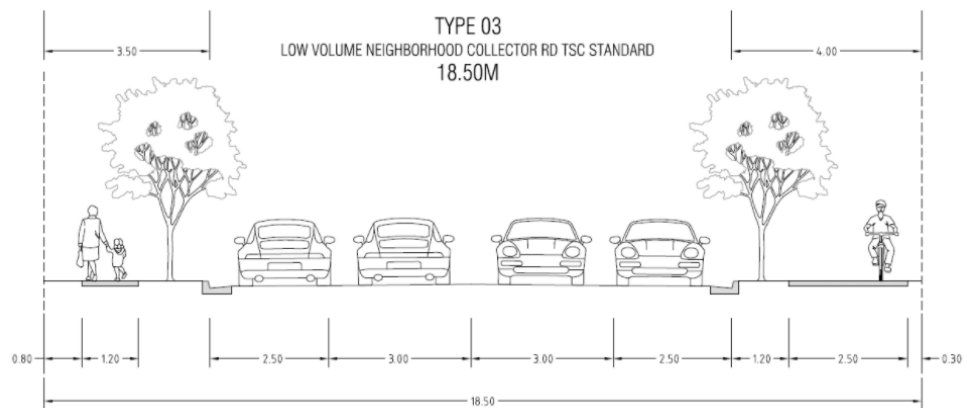


Figure 16 – Proposed Low Volume Neighbourhood Collector Road (18.5m) Cross Section

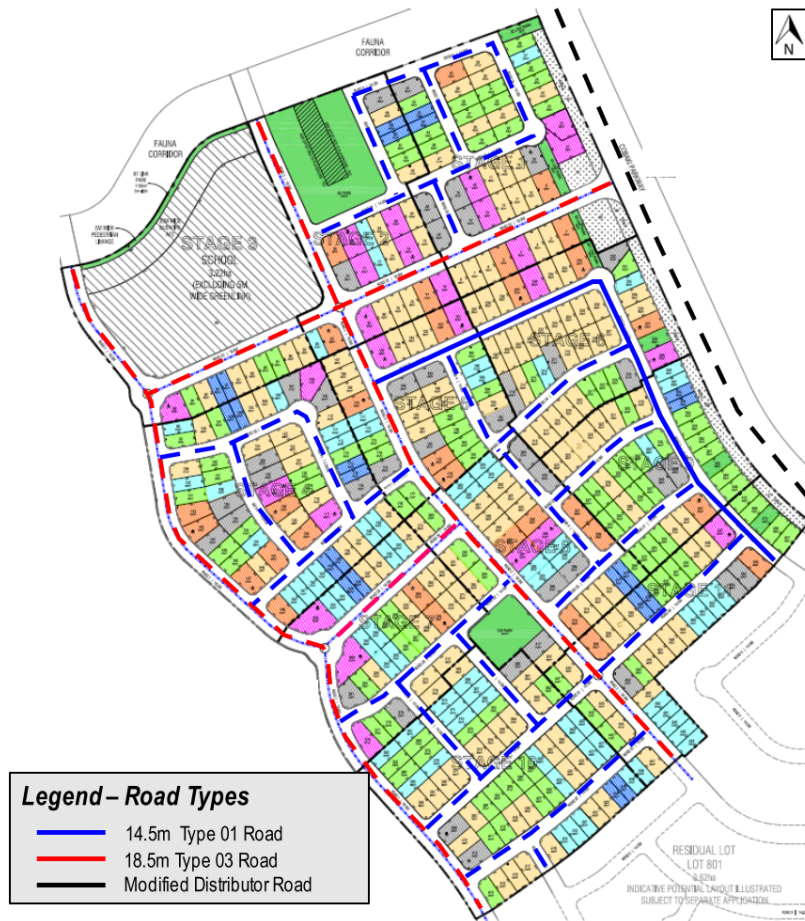


Figure 17 – Proposed Road Type Locations

Council’s Development Engineer has noted that the most recent TIA is not consistent with the latest subdivision design (i.e. revised configuration to provide for the required stormwater treatment and the cul de sac in Stage 2 of the development). An appropriate condition has been applied in this regard.

Irrespective of this minor inconsistency, Council’s Development Engineer considers that the internal road network has been designed in accordance with Council’s DCP - Section A5 - Subdivision Manual and associated Design Specification D1 - Road Design.

Intersections

The proposed P6&7 subdivision has only one access point onto Cobaki Parkway, which is shown below in Figure 18.

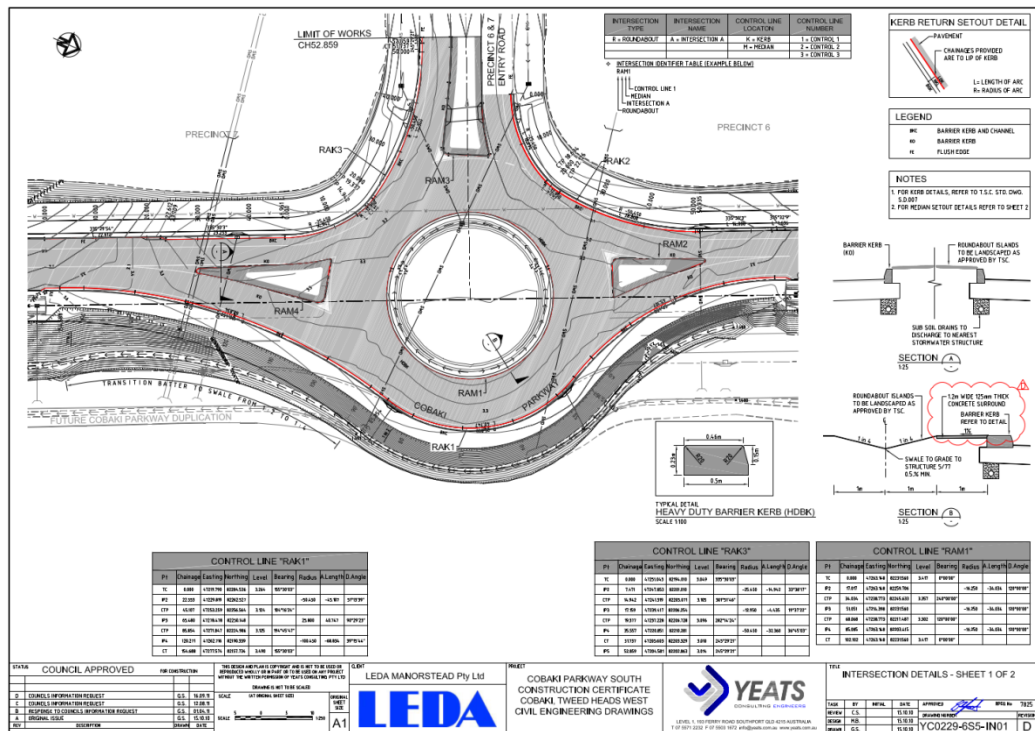


Figure 18 – Precinct 6 & Cobaki Parkway Intersection Design

As requested in Council’s initial RFI letter, a new intersection (4 way with roundabout) was added at the intersection of Road 02 and Road 31 to achieve compliance with Section D1.07 of Council’s Development Design Specification D1 – Road Design, which stipulates that where Neighbourhood Connector Roads exceed 600m in uninterrupted length, additional speed control is required.

It is also noted that the inclusion of this roundabout removed the original proposal of two traffic calming devices (with additional lighting) being required in Precinct 7.

The TIA recommends that the proposed 'Precinct 6 roundabout' is constructed at this stage of development to increase the accessibility and safety of the road intersection and remove any traffic impacts due to construction at a later date. Council’s Development Engineer concurs with this recommendation. An appropriate condition of consent has been applied.

Access

Council’s Development Engineer has noted the following with regard to access provisions for the proposed subdivision:

“Access to Cobaki Parkway is restricted to one of the collector roads. Local access streets provide internal circulation and permeability within the proposal.

Residential allotments cannot have direct access to Cobaki Parkway (as supported by RMS).

Local access streets are considered of appropriate width and design to discourage through traffic in accordance with the principles of road hierarchy as per the Development Code control”.

Pedestrians / Footpaths / Cycleway / Shared Use Path (SUP)

It is noted that the TIA incorporates a minimum of one 1.2m wide concrete footpath on at least one side for all Access Streets, with an additional 2.5m wide shared path provided for Collector Road. Refer to Figure 19 below.



Figure 19 – Circulation Network (2.5m Shared Pedestrian / Cycleway shown in Blue and 1.2m Pedestrian Pathway shown in Orange)

Council's Manager Roads & Stormwater requested that an SUP be provided along the full frontage of the proposed school site. The applicant has agreed to an applicable condition being imposed in this regard.

Traffic Generation / Assessment

The amended TIA notes that the proposed development will generate 401 trips per hour during the peak period.

As noted previously, the TIA also states that although the proposed Precinct 6&7 intersection with Cobaki Parkway will have no “through movements” at the expected time of construction of Precinct 6&7, (as a result of Cobaki Parkway not being extended beyond the Precincts in question), it is recommended that the proposed, final Precinct 6 roundabout be constructed to minimise later disturbance, instead of a T-intersection (which would actually suffice at this stage based on traffic numbers).

Council’s Development Engineer concurs with the TIA in terms of the P6&7 roundabout on Cobaki Parkway, noting that this will increase the accessibility and safety of the road junction and remove any traffic impacts due to construction at a later date. This has been conditioned accordingly.

As requested by Council’s third RFI letter, Council’s Development Engineer notes that a traffic calming device will be required along Road 3 between Road 23 and Road 30, as per DCP requirements, which limits access street lengths to 350m and collector road lengths to 600m. The applicant responded by requesting an applicable condition be imposed.

Open Space Network

The applicant has submitted three main open space / landscaping documents with the application. These are: the Open Space Master Plan; the Landscape Master Strategy; and the Sandridge (Precincts 6, 7 and 8) Landscape Guidelines. All three documents are intended to be subject to change as the Cobaki site is developed over the coming years.

Council’s Recreation Services Unit has been involved with open space discussions with the applicant for several years now. They have undertaken a detailed analysis of the three documents submitted by the applicant, with a brief review of each noted below.

The ***Open Space Master Plan*** (OSMP) is a site wide review of casual and structured open space requirements for the overall development (refer to Figure 20 below). This document is considered to be applicable to the development in terms of how it guides the dedication and distribution of casual open space, in terms of how it relates to P6&7.



Figure 20 – Cobaki Open Space Master Plan

Council officers have identified a number of amendments that are required for the overall OSMP, although it is acknowledged that such amendments do not impact upon the proposed subdivision of P6&7 and as such will be dealt with separately, in continuing discussions with the applicant or as future applications are submitted. Such amendments largely relate to an overall shortfall in casual open space, design and embellishment requirements of structured open space.

Although not triggered by this application, a condition of consent has been applied stipulating the trigger point for Structure Open Space (sports fields) at 1000 lots.

The OSMP identifies that the northern sports fields will be constructed first, with a separate development application required. As shown in Figure 21 below, the northern sports fields will have provisions for various sports such as soccer and rugby, a clubhouse, car parking and a District Park incorporating a playground and other facilities such as a skate park.



Figure 21 – Northern Sports Fields

The **Landscape Master Strategy (LMS)** is also a site wide document, dealing with the overall landscaping / embellishment requirements for public open space areas, streetscape requirements across the site and the characteristics of each precinct. This document will be linked to the consent, with regard to its relevance to P6&7.

A review of the LMS has identified a number of items that are not supported and require amendment. These largely relate to the visual representation of themed bollards, streetscape garden beds etc (as shown in Figure 22 below), which do not comply with Council's standards. An applicable condition of consent has been applied in this regard, requiring the LMS to be amended accordingly.



Figure 22 – Proposed bollards and streetscape garden beds requiring amendment

As noted in Figure 23 below, the proposed subdivision incorporates a cul de sac head which encroaches into the proposed Neighbourhood Park in Stage 2 of the development. Council officers consider that an amendment to the road configuration is required, to provide for a

In addition to the requirement for the cul de sac head to be centrally located, a condition of consent has been applied ensuring that the proposal meets the minimum casual open space requirements (1.13ha per 1000 residents). This is considered to be achievable by slightly increasing the size of the Local Park in Stage 8 of the development, to make up for the shortfall. The requirement of casual open space at the rate of 1.13ha per 1000 residents has been applied consistently to subdivisions in the Tweed Shire. As such, it is considered that (subject to the abovementioned amendments), the proposed development will meet the minimum requirements for casual open space.



The ***'Sandridge' Landscape Guidelines*** (SLG) incorporate specific requirements for the landscaping and embellishment of Precincts 6, 7 and 8. This document is highly relevant to the proposed development, but in terms of its provisions for Precincts 6 and 7. The document will require further consideration / amendments at a later date, particular to the future development of Precinct 8.

Council officers are largely satisfied with the provisions of the SLG, noting that any outstanding issues with specific landscaping requirements will be addressed through the assessment of the detailed landscape plans for P6&7. A suitable condition of consent has been applied in this regard.

Link Parks

The proposed subdivision incorporates a number of Link Parks, as noted below in Figure 24. These parks provide an important role in terms of connectivity and walkability within the subdivision itself. Some of the Link Parks also provide opportunity for stormwater conveyance.

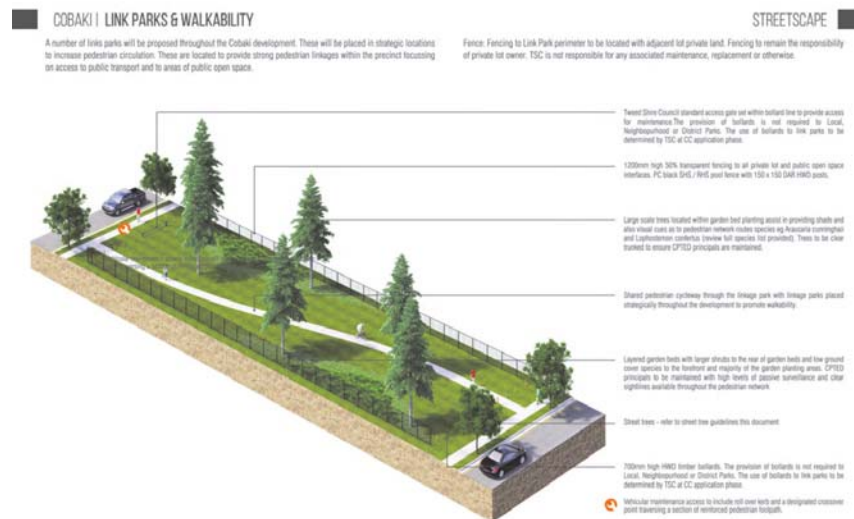


Figure 24 – Link Park

Walkability

In terms of walkability, the proposed subdivision is compliant with Council's current requirement (in DCP A5) of 95 % of residences within 400m walking distance of casual open space (refer to Figure 25 below). The proposal incorporates 12 allotments within Stage 4 (which represents 2.6% of the 452 allotments being proposed). Council officers are satisfied with the proposal's walkability, particularly given that Council's new Open Space Strategy will likely to require 500m walking distance from casual open space for low density development.



Figure 25 – Circulation Plan for P6&7 (400m Radius from Casual Open Space shown in Green)

Embellishment

Following discussions with the applicant with regard to dedication and embellishment requirements, agreement has been made in terms of the dedication of the initial 4ha of the northern sports fields. As noted previously, the embellishment of this area will not be required until 1000 lots are registered. Dedication of the 4ha will occur at the final stage of DA16/0056, with the northern sports field area required to be levelled, grassed and maintained by the developer until the 4ha are fully embellished as sports fields. An appropriate condition of consent has been applied in this regard.

Lot Layout

Lot Orientation

Council's initial RFI letter requested that the applicant provide for good solar orientation in the configuration of the subdivision. It was noted that it would be appropriate to have the overall orientation of the allotments (30 degrees either side of true North) where possible, in order to provide a higher percentage of allotments with good solar orientation.

The RFI letter also made mention of the relationship of lot depth / width to orientation and resultant housing type that needs to be considered. It was advised that good solar planning generally aligns long boundary dimensions to the north which will enable house design to more easily respond to solar orientation and that as a general rule of thumb, allotments having an East-West orientation should have a wider street frontage enabling north facing living space and yard.

The applicant was advised that allotments that have a North - South orientation with narrow frontages resulting in more lots overall having a northern orientation in the context of an overall subdivision layout. It was noted that this needs to be considered in terms of housing type and housing design where optimum living spaces and yards will be in either the front or back yard depending on which side of the street the allotment is on.

The applicant's response to Council's initial RFI provided the following response with regard to lot orientation and Solar Orientation Plan, which is shown below in Figure 26.

"Please refer to the Solar Orientation Plan contained within Attachment I. This plan notes the particular orientation of the lots and establishes the percentage of lots facing a particular orientation.

The right house block orientation is one that allows the main daytime living and outdoor areas to be facing north.

Northern facing building alignments promote natural lighting and energy efficiency. In the summer when the sun is high in the sky the windows and walls are shaded by the use of eaves and shade screens. By excluding the summer sun from the house it remains cooler for longer reducing the reliance on artificial cooling.

In the winter when the sun is low in the sky these same windows and walls will capture the sun and allow the room to be warmed. If the home is properly designed the sun will heat the slab floor and then at night when the temperature drops the slab will radiate the stored heat back into the home. This reduces the requirement for artificial heating.

Obviously not all blocks in a subdivision can have the rear yard facing north. While ideal orientation is solar north, blocks with orientations of up to 20° west and 30° east of north still allow good passive sun control. The critical design element for lots and dwellings is to maximise the length of the lot or building to the north.

From this principle east west orientated blocks have better solar orientation as they maximise length of the building/lot to the north. As can be seen from the attachment approximately 39% of allotments fall within this category. When combined with northern orientated lots the percentage of lots with good solar access increases to 72%.

South orientated allotments may still have north orientated open space and living areas however do have a reduced northern aspect.

We are of the view the layout has been designed to maximise solar orientation. These design choices predicated design options for the site and thus street alignments".



Figure 26 – P6&7 Solar Orientation Plan

With regard to lot width and depth, the applicant provided the following response:

“As outlined above we have orientated allotments to maximise an east west or northern orientation. The layout also incorporates a variety of other design parameters to provide diversity and interest in the street scape. This is achieved by varying lot widths and other design controls contained in the POD.

In respect to the requirement to maximise, allotments private open space and living areas achieving the desired solar benefits, controls are place on allotments with frontages less than 12.5m. The POD identifies that where an allotment shares both side boundaries with a lot with frontages equal to and less than 12.5m, only single storey dwellings may be constructed.

Through this amenity and liveability elements such as breezes and solar access impacts are reduced. This approach also ensures overlooking and privacy issues are addressed”.

Connectivity

The proposed vehicular connectivity is generally considered to be satisfactory. However, Council’s initial RFI letter encouraged stronger East-West connections (particularly in terms of pedestrian / cyclists), to link open space with perimeter roads improving overall connectivity and legibility. For example, it was recommended that Road 20 be extended further north east (towards the Cobaki Parkway), providing a 4 way intersection with Road 8. This would also provide an opportunity to incorporate traffic slowing devices (roundabout) at this location.

The applicant amended the proposed subdivision to incorporate improved circulation through the stages and to the COS, noting that “...*The modified grid structure of the layout also assists with legibility. This is further enhanced by the road layout which terminates at open space areas. The new east west linkage of Road 30 and 31 will create a 4-way intersection which will accommodate a roundabout and delivery the traffic calming sought in the information request”.*

Lot Layout

Council’s initial RFI letter noted that whilst each stage had a wide variety of lot types, there appeared to be little justification for the proposed allotment locations. It was considered more appropriate to incorporate the solar design principles and apply allotments of differing lot width / depth accordingly.

The applicant was also encouraged to provide a mixture and diversity of housing types throughout the precinct, with the opportunity for some of the housing typologies be grouped together, to give stronger character to that particular stage. An example of this could be a block group of narrow frontage allotments (10m) with a strong coherent design.

Council’s RFI also noted that consideration should be given to the use of rear loaded allotments (as used in Seaside City for example), taking advantage of solar orientation and providing a rear lane access in a block of development.

In response to Council’s comments, the applicant provided the following comments:

“As advised a diverse street scape is sought to be delivered which necessitates the provision of varying sized blocks and thus width. We recognise that concentrating lower sized allotments and thus frontage widths would negatively impact on the overall character of the estate, stage and street. As noted controls are included in the POD to address lots with frontages less than 12.5m in respect to impacts on solar access.

Whilst the point raised is noted, the character sought in this precinct is of detached semi- detached dwellings. We do anticipate that smaller dwelling typologies and thus urban character will be delivered in the estate in close proximity to the neighbourhood and town centres.

Rear load allotments are not proposed in this application. As noted, 72% of allotments have desired solar orientation”.

Infrastructure

Infrastructure required

Council’s Water & Wastewater Unit have undertaken a detailed analysis of the proposed development in terms of connection to Council’s reticulated water and wastewater infrastructure. Following a number of concerns raised in all three of Council’s RFI letter, the Water & Wastewater Unit provide the following comments on the proposed subdivision:

“Item 1:

The previous RFI from the W&WW Unit in June 2017 highlighted the need for the developer to provide a dedicated lot, as required within Council’s D12, for all proposed sewerage pumping stations. In summary, the new plans show:

- *The updated plans provided by the developer on 16 October 2017 (Appendix A – Subdivision Plan, page 16) shows lots 621 and 626 created.*
- *The sewer pumping station site, Lot 700 as shown on pages 1, 2 and 5, has been moved (formerly shown in the park) to a lot at the edge of the proposed school lot, within the bushfire zone.*
- *All lots appear to have adequate sizing (ie: greater than 400m²), however no detail has been provided to determine if the proposed sites will be suitable to meet Council standards for adequate access and buffer zones (particularly for Lots 621 & 626).*
- *Furthermore, it is not known if the new pumping station site at Lot 700 meets requirements for minimum depth and grade.*

Item 2:

Whilst undertaking the review, it was noted in the Statement of Environmental Effects Table 5.4 Section 11, that the report states that no easements are to be provided for public infrastructure as there will be no sewers within residential lots. Whilst this may have been correct for the original proposed sewer layout design, it is noted that the most recent layout in the Sewer Capacity Assessment (Arcadis 01 March 2017) shows sewers proposed within the residential lots. Accordingly, and in accordance with the Cobaki Development Code and Council’s standards, conditions of consent should include the provision of easements over all public infrastructure within private property”.

Overall, Council officers are satisfied that connection to Council reticulated system is achievable. Appropriate conditions of consent have been applied with regard to further detail required prior to the issue of Construction Certificate.

It should be noted that the developer is currently involved with an application to the Independent Pricing and Regulatory Tribunal (IPART) for a Network Operators Licence and

Retail Suppliers Licence to provide private water and sewer for the residents of the Cobaki development. The proposed wastewater treatment plant associated with the IPART application is located adjacent to the Cobaki development site. The application is still under review by IPART with no specific date for an assessment outcome.

If the licence application is successful, the applicant will need to amend the subdivision approval with regard to the private water / wastewater, triggering assessment against the provisions of Condition C20 of the Concept Plan, which requires the applicant to demonstrate that adequate provision is available within the road reserve for all necessary easement and services, where recycled water is proposed. Council officers do not consider that the approved road widths under the Concept Plan allow sufficient width for the additional recycled water infrastructure. As such, it is considered that an IPART approval would trigger substantial changes to the overall subdivision in P6&7 (and more broadly across the Cobaki estate) to provide for a wider road reserve widths.

Conclusion

The subject application has required significant review and assessment by Council officers over a period of almost two years. Council officers have issued several detailed RFI letters, which over this period has resulted in various improvements to the design of public infrastructure in Precincts 6&7. This is seen by Council as important in laying precedents for the subsequent stages of Cobaki, as well as potentially Kings Forest. The applicant has accommodated most changes, with the exception of a few key areas identified in the above report. It is considered that these outstanding matters can be dealt with by way of deferred commencement conditions, which will allow the application to be determined without further delay for revised plans etc.

Overall, the proposed development is considered to satisfy the provisions of DCP A5, subject to conditions of consent.

A11 - Public Notification of Development Proposals

Exhibition of the proposed subdivision was undertaken in accordance with the DCP. No submissions were received from the general public.

(a) (iv) Any Matters Prescribed by the Regulations

Clause 92(a) Government Coastal Policy

The proposed development is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is not considered that the proposed development contradicts the objectives of the Government Coastal Policy, given its permissible nature on a site identified for development works.

Clause 92(b) Applications for demolition

There is no demolition proposed as part of this application.

Clause 93 Fire Safety Considerations

Clause 93 is not applicable to the proposed development.

Clause 94 Buildings to be upgraded

Clause 94 is not applicable to the proposed development.

- (a) **(v) Any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*)**

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The primary objectives of the Coastal Management Plan are to protect development; to secure persons and property; and to provide, maintain and replace infrastructure.

The proposed development is not considered to impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline.

Tweed Coast Estuaries Management Plan 2004

This Plan applies to the Cudgen Creek and Cudgen Lake, Cudgera Creek and Mooball Creek systems and does not apply to the subject site.

Coastal zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

The subject site is located within the Cobaki Broadwater Catchment under this Management Plan. Specifically the site is located within the Estuarine zone of this catchment.

The Cobaki Broadwater has high conservation, cultural, tourism and economic values and provides habitat for a variety of threatened species including migratory birds and endangered ecological communities. The area contains pristine bushland, rainforest communities and wetland areas including endangered ecological communities and forms part of important regional fauna corridors. The waters provide valuable nursery and breeding grounds for fisheries.

The subject site is located directly adjacent to Cobaki Creek, which discharges into Cobaki Broadwater to which this management plan relates. Subject to conditions of consent specifically relating to erosion and sedimentation control and stormwater management, the proposed development is considered to be consistent with the objectives of the Plan.

- (b) **The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Earthworks

As noted in the TLEP 2014 assessment above, Council's Development Engineer is satisfied with the proposed earthworks associated with the proposed subdivision, subject to appropriate conditions being applied.

Flora and Fauna

Council's Natural Resources Management (NRM) Unit has undertaken an assessment of the proposed subdivision. Appropriate conditions of consent have been applied to ensure compliance with provisions of approved environmental management plans for the development.

Water Supply / Wastewater

As noted above, Council's Water and Wastewater Unit have undertaken a detailed review of the applicant's proposal for the P6&7 subdivision. Whilst there still remain some concerns in terms of the water / wastewater design, it is considered that such concerns can be resolved at the detailed design stage, prior to the issue of a Construction Certificate. Applicable conditions of consent have been applied in this regard.

Stormwater Drainage

As noted in the TLEP 2014 assessment above, following various consultations with the applicant and their consulting engineer, Council's Development Engineer is now satisfied with the proposed stormwater drainage associated with the proposed subdivision, subject to detail design being provided for Council approval prior to the issue of a Construction Certificate for subdivision works. Appropriate conditions of consent have been applied with regard to stormwater drainage.

Flooding

As noted in the TLEP 2014 assessment above, Council's Development Engineer and Flooding Engineer are satisfied with the proposed development in terms of flooding, subject to appropriate conditions being applied.

Noise / Amenity

A review of the proposed development was undertaken by Council's Environmental Health Unit, with particular regard to potential noise impact associated with traffic on the adjacent Cobaki Parkway.

The applicant provided an Environmental Noise Impact Report, which considered the potential impact to residences if vehicles were travelling along the Cobaki Parkway at 80kph. Whilst it is unknown at this stage as to whether the speed limit will be set at 60 or 80kph, the report assumed the higher vehicle speed and undertook noise modelling for that speed.

The Report recommends the provision of 2.35m high acoustic barriers along the rear (and some side) boundaries of allotments adjacent to the Cobaki Parkway (as shown in Figure 27 below). The Report also recommends a 1.8m high acoustic barrier for four allotments along Road 22 (near the intersection with Cobaki Parkway).

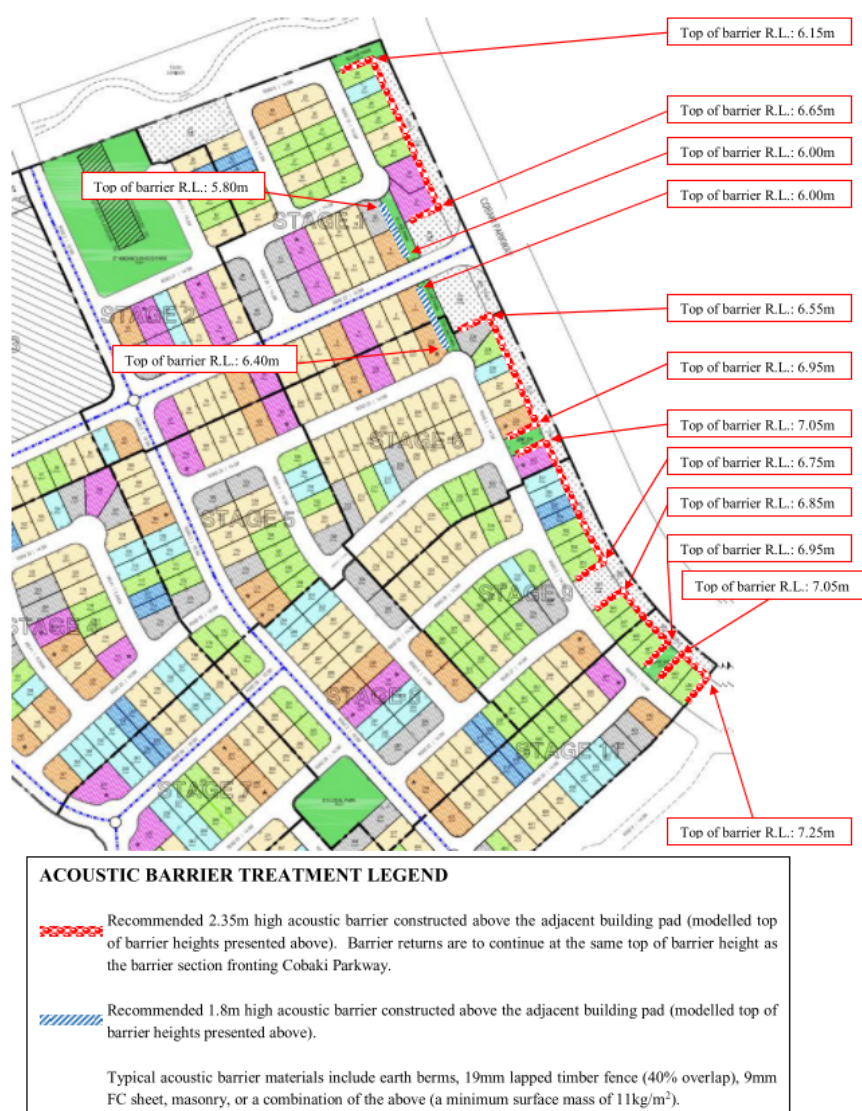


Figure 27 – Recommended Acoustic Barrier Treatment

The Report requires the owners of the allotments along the Cobaki Parkway to provide a separate detailed noise assessment (once dwelling designs have been finalised) for dwellings incorporating above ground floor levels to determine specific building shell treatments of the proposed habitable rooms, as per the internal noise criteria provisions of Australian Standard 3671:1989.

In addition, the Report requires a detailed acoustic assessment for development of the proposed school site. The assessment would need to review any proposed school hall or auditorium (at detailed design phase) to ensure adequate building shell attenuation and to ensure appropriate and achievable acoustic treatments and management controls are provided for school building to achieve compliance with relevant noise criterion.

Council's Environmental Health officers are satisfied with the proposed recommendations within the Acoustic Report. Appropriate conditions of consent have been applied with regard to acoustic fencing, including a **Deferred Commencement Condition** requiring the POD's to be updated to adequately identify allotments requiring acoustic fencing and allotments requiring additional noise assessments for the required construction methods on the second storeys of dwellings.

The recommended acoustic assessments for the school site will be applied to any future development application for a school within Precinct 6. An 88B instrument will also be required with regard to the school acoustic requirements

Subject to the application of the recommended conditions, the proposal is considered to be acceptable in terms of noise and amenity impacts.

Open Space

As noted above, Council's Recreation Services has undertaken a detailed review of the overall open space and landscaping documents associated with the subdivision of P6&7. For the purposes of this application, the proposed open space provisions for P6&7 are considered to be acceptable, subject to conditions of consent.

Further development of the site wide open space and landscaping documents will be required and it is envisaged that these documents will be amended as necessary as the overall site is developed.

(c) Suitability of the site for the development

The site has been zoned for urban purposes for over twenty years with current development consents and construction certificates for subdivision in operation. The site is bounded by rural, rural residential, sensitive wetlands, the Cobaki Broadwater, Crown Land and residential development across the Queensland NSW State border.

Appropriate conditions of consent have been applied to ensure compliance with all relevant legislation and the provisions of the approved Concept Plan.

The site is considered to be suitable for the proposed development.

(d) Any submissions made in accordance with the Act or Regulations

The application was placed on public exhibition (advertised) for a 14 day exhibition period from 17 February to 2 March 2016. During this period Council did not received any public submissions.

Public Authority Submissions

Essential Energy

Essential Energy provided comment on the proposed Stage 2 & 3 subdivision application. Essential Energy noted no objection to the proposed development, subject to a number of recommended conditions, which have been incorporated into the list of recommended conditions of consent.

NSW Roads and Maritime Services (RMS)

RMS provided comment on the proposed development of P6&7, with specific reference to the Traffic Impact Statement prepared by Bitzios Consulting and agreeing with the conclusions drawn by that report.

It was also noted that “...*The future function of the Cobaki Parkway will be that of a distributor road for traffic generated by the development of Cobaki Lakes. To maintain this functionality into the future, direct access to this road for individual lots should be restricted*”.

The proposed development is compliant with the requirements of the RMS, with no direct access for individual properties being proposed. The only access point off Cobaki Parkway is the main entrance into P6.

NSW Rural Fire Services (RFS)

Although the proposed development did not require referral to the RFS as integrated development, the RFS were contacted with regard to the proposed subdivision. The RFS advised that they had met with the applicant and their bushfire consultant to discuss the Cobaki development site in general.

Although they did not necessarily agree with the applicant’s and Council’s interpretation of the Transitional Part 3A legislation, it was agreed that the developer was still legally required to obtain a Bushfire Safety Authority (BSFA) under Section 100B of the Rural Fires Act 1997 before commencing development associated with the proposed subdivision. It was also noted that if a BSFA was not obtained during the subdivision assessment process, any bushfire issues impacting the development would be at the liability of the developer. Such a risk has been acknowledged by the applicant.

The RFS recommended that two conditions be inserted into any development consent, along the following wording:

1. *Prior to commencing development works, the developer shall obtain a bush fire safety authority under S100B of the Rural Fires Act 1997.*
2. *Prior to the issuing of a subdivision release certificate, all conditions of the bush fire safety authority shall be complied with.*

It was also noted that Council could add additional bushfire conditions relating to certification of compliance to BFSFA conditions, if desired.

Appropriate conditions of consent have been applied in this regard.

(e) Public interest

The subject site has been identified as a Greenfield development site for over twenty years. The location of the site adjacent to Cobaki Creek and the existing environmental protection lands throughout the site requires appropriate management and controls of potential

impacts. It is considered that such impacts can be mitigated, subject to conditions of consent, such that the development can proceed and public interest issues are balanced.

Contribution Charges for the subject development

Contribution charges have been applied to each stage of the proposed development on a lot by lot basis, with the exception of the 33 Plex allotments. The Plex lots have been charged at a higher density rate to account for a dual occupancy development proceeding as complying development and the inability of the Development Code to require certifiers to condition the payment of S64 water / sewer development contributions.

OPTIONS:

1. Approve the application in accordance with the recommendation; or
2. Refuse the application with stated reasons for refusal.

Option 1 is recommended.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right of appeal in the NSW Land Environment Court if dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil

CONCLUSION:

The proposed Concept Development Application (incorporating Stages 2 and 3 of the approved Masterplan under DA15/1026) is considered suitable for the site as it is a permissible form of development and relevant planning considerations have been taken into account in the assessment of the application.

The proposed subdivision of P6&7 represents a component of the large residential development that is part of the Concept Approval issued by the Minister for Planning. The Cobaki development site is a key strategic site for the Tweed, the Far North Coast and NSW.

It is considered that the proposed development accords with the Concept Plan approval and incorporates appropriate measures to mitigate any potential adverse impacts arising from the proposal.

UNDER SEPARATE COVER:

Nil

RECOMMENDATION:

That Development Application DA16/0056 for a Concept Development Application under Section 83B of the EP&A Act 1979 development of Precincts 6, 7, 8, 9, 10, 11 & 12 – Cobaki Lakes (JRPP), Stages 2 and 3 – Subdivision of Part Precinct 6 and part Precinct 7 comprising 452 residential lots, 8 public open space lots, 1 school lot, residual lots and associated infrastructure at Lots 46, 54, 55, 200, 201, 202, 205, 206, 209, 199, 228, 305 DP 755740; Lot 1 DP 823679; Lot 1 DP 570077; Lot 1 DP 562222; Lot 2 DP 566529; Lot 1 DP 570076; Sandy Lane and Piggabeen Road, Cobaki Lakes, be approved subject to the following conditions:

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