

DETERMINATION AND STATEMENT OF REASONS
NORTHERN JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Friday, 24 November 2017
PANEL MEMBERS	Garry West (Chair), Pamela Westing, Stephen Gow, Ned Wales and Robert Quirk
APOLOGIES	None
DECLARATIONS OF INTEREST	Stephen Phillips declared a perceived conflict of interest due to his professional work in relation to the site.

Electronic determination meeting held between 23 November 2017 and 24 November 2017.

MATTER DETERMINED

2017NTH016 – Tweed Shire – DA15/1026.02 AT Sandy Lane and Piggabeen Road, Cobaki Lakes (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 96 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

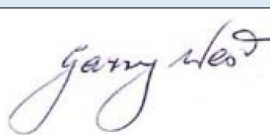
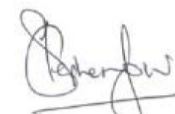
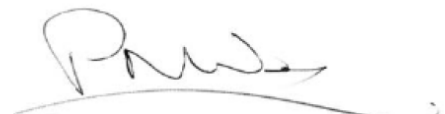
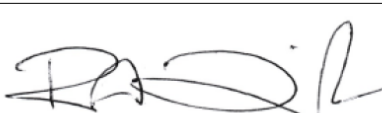
REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

1. The proposed increase in the maximum area to be disturbed will enable the completion of bulk earthworks in a concurrent and efficient manner;
2. The applicant's modelling indicates the proposal will reduce the overall construction time by a minimum of eight weeks;
3. The modelling indicates the exposed areas to the maximum will be four weeks of a 22 week period;
4. The amendments to conditions 24A and 66A clarify that the maximum exposed area will not exceed a total of 15ha for the whole site.

CONDITIONS

The development application was approved subject to the conditions in Schedule 2.

PANEL MEMBERS	
Garry West (Chair) 	Pamela Westing 
Stephen Gow 	Ned Wales 
Robert Quirk 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017NTH016 – Tweed Shire – DA15/1026.02
2	PROPOSED DEVELOPMENT	Amendment of a 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. The proposed modification is to increase the maximum exposed area specifically in relation to proposed bulk earthworks acquiring fill material from Precinct 9 to be placed within Precincts 6 and 7. The proposed increase is from a 5ha limit to a total of 15ha.
3	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
4	APPLICANT OWNER	LEDA Manorstead Pty Ltd C/- DAC Planning Pty Ltd LEDA Monorstead Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	• State Environmental Planning Policy No 14 – Coastal Wetlands • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy No 71 – Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007 • Tweed Local Environment Plan 2014 • Tweed Development Control Plan Section A2 – Site Access & Parking Code • Tweed Development Control Plan Section A3 – Development of Flood Liable Land • Tweed Development Control Plan Section A11 – Public Notification of Development Proposals • Tweed Shire Coastline Management Plan 2005 • Coastal Zone Management Plan for Cobaki and Terranora Broadwater • Clause 92(a) Government Coastal Policy • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	• Council assessment report: 1 November 2017 • Written submissions during public exhibition: one (1) • Verbal submissions at the public meeting on 15 November 2017: ○ On behalf of the applicant – Dale Scotcher, Leda and Selina McNally, DAC Planning • Memorandum from Council regarding agreed changes to conditions of consent dated 22 November 2017 • Email from Council responding to Panel member query dated 24 November 2017
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	• Final briefing meeting to discuss council's recommendation, 15 November 2017, 9:00 am. Attendees: ○ <u>Panel members</u>: Garry West (Chair), Pamela Westing, Stephen Gow, Ned Wales and Robert Quirk ○ <u>Council assessment staff</u>: Colleen Forbes, Team Leader Development Assessment; Brad Pearce, Team Leader

		Environmental Health; and Mick Denny, Senior Development Engineer - Public determination meeting at Tweed Heads Administration Building, Brett Street, Tweed Heads on Wednesday, 15 November 2017 - Electronic determination between 23 November 2017 to 24 November 2017
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Final set of conditions, including amendments agreed by Council and the applicant and the amendments requested by the Panel, supplied by Council on 27 November 2017 and attached at Schedule 2

SCHEDULE 2	
GENERAL	
1.	The development shall be carried out and completed in accordance with the following Plans and Reports listed below, except where varied by the conditions of this consent. PLANS - Master Plan for Precinct 6 to 12 - Context Plan, Dwg No: Cobaki_P6-12_2016_V21_DA1, prepared by Planit Consulting and dated May 2016; - Master Plan for Part Precinct 6, 7 and 8, Dwg No: Cobaki_P678_2016_V21_DA1 prepared by Planit Consulting and dated May 2016; - Master Plan for Precinct 9 and 10, Dwg No: Cobaki_P9_10_2016_V21_DA1 prepared by Planit Consulting and dated May 2016; - Master Plan for Precinct 11 and 12, Dwg No: Cobaki_P11_12_2016_V21_DA1 prepared by Planit Consulting and dated May 2016; - Bulk Earthworks Staging Plan (Sheet 1 of 3), Dwg No. A443-BE-0-0101 Rev C, prepared by Sedgman and dated 24 May 2016; - Bulk Earthworks Staging Plan (Sheet 2 of 3), Dwg No. A443-BE-0-0102 Rev C, prepared by Sedgman and dated 24 May 2016; - Bulk Earthworks Staging Plan (Sheet 3 of 3), Dwg No. A443-BE-0-0103 Rev C, prepared by Sedgman and dated 24 May 2016; [GEN0005]
1.1.	Blasting may be undertaken in Precinct 9 to a maximum of 10 blasts over 12 months from the date of the first blast, extracting a maximum of 40,000m³ of blasted material from Precinct 9 (unless agreed otherwise by Council).
2.	The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application. [GEN0045]
3.	Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. [GEN0135]
4.	Council advises that the site is flood liable pre bulk earthworks, with Design Flood Levels as illustrated on the 0.1m contour "Q100 - Extent of Flooding" Drawing A443-BE7-SK01 Rev B (prepared by Sedgman) intended post bulk earthworks.

The “Q100 - Extent of Flooding” Drawing (also referred to as the Design Flood Level Map) shall be updated to include Works As Executed levels for bulk earthworks and any other works that may affect flood behaviour and submitted to Council for endorsement at the completion of each bulk earthworks phase and prior to issue of any future Subdivision Certificate.

[GEN0195]

5. The development is to be carried out in accordance with Council’s relevant Development Design and Construction Specifications unless otherwise altered by the provisions of the Cobaki Estate Development Code.

[GEN0265]

6. This consent is subject to the fulfilment of all relevant, existing Deed obligations.

[GENNS01]

7. Prior to the issuing of a Construction Certificate under DA15/1026, all existing approvals over the Cobaki Development applicable to Precincts 6, 7, 8, 9, 10, 11 & 12, must to be amended, pursuant to Section 80A(1) of the EP&A Act 1979 (as amended), to delete any inconsistency with DA15/1026.

[GENNS02]

8. All approvals, licenses and consents from applicable Government Agencies and Authorities are to be obtained, where required.

[GENNS03]

9. Works for future residential subdivisions over Precincts 6, 7, 8, 9, 10, 11 & 12 cannot commence until the bulk earthworks associated with the footprint of the residential subdivision has been completed and accepted by the PCA.

Numerous Construction Certificates for staged Bulk Earthworks may be issued over Precincts 6, 7, 8, 9, 10, 11 & 12 under this consent, provided each of the Construction Certificates are compatible and each application addresses all relevant consent conditions.

[GENNS04]

10. This development consent approves the Masterplan and Stage 1 only of the development, being staged bulk earthworks across Precincts 6 - 12. Future subdivision stages of the development require separate development consent, consistent with the approved Masterplan.

11. The approved Masterplan is conceptual only. Subject to further detail design at Construction Certificate stage for bulk earthworks and future subdivision stages, the overall concept may require amendment.

12. Bulk Earthworks will be required to be modified where detailed design requirements for infrastructure (including water supply and sewerage) cannot be met.

13. No works may be undertaken within areas adjacent to Precincts 6 to 12 that will result in removal of native vegetation from Environmental Protection zoned land.

14. Development must be undertaken in accordance with the requirements of any approved Site Regeneration and Restoration Plans, Habitat Restoration Plans, Threatened Species Management plans and all other approved management plans relevant to the Precinct 6 to 12 development.

15. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the subject site to be complied with.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

16. Each Construction Certificate Application for Bulk Earthworks shall include a detailed Stormwater Management Plan (SWMP) complimentary to the SWMP endorsed under the Concept Plan for the construction and post construction phase of the Bulk Earthworks, prepared in accordance with Section D7.B2 of Council's *Development Design Specification D7 - Stormwater Quality*. Such plans are to include measures, monitoring and adaptive management actions to ensure appropriate stormwater quality outcomes are achieved.

Stormwater quality treatment shall comply with the *Tweed Urban Stormwater Quality Management Plan* and Council's *Development Design Specification D7 - Stormwater Quality and Code of Practice for Soil and Water Management on Construction Works*.

Treatment basins must be provided with a facility to bypass major stormwater flow events (greater than the Q3 month storm event), or otherwise cater for major storm flows without disturbing captured pollutants or damaging the structure.

Proposed treatment measures must be supported by engineering calculations, to confirm that acceptable capacity and efficiency is achieved, and water quality objectives are achieved.

Shake down area/s are to be installed within the property, immediately prior to any vehicle entering or exiting the site, prior to any earthworks being undertaken.

[PCC0165]

17. Prior to the issue of a Construction Certificate for Bulk Earthworks, a Cash Bond or Bank Guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works associated with the Construction Certificate, as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when a Final Practical Inspection is undertaken by the PCA and the works associated with the bond are accepted by Council.

[PCC0275]

18. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable). Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

19. Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17^O (1:3.27) or steeper, such slopes shall be stabilised accordingly with permanent steep batters densely planted in accordance with a detailed Landscaping Plan endorsed by Council. This Plan shall accompany the Construction Certificate application and shall be consistent with all other Management Plans.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

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

[PCC0455]

20. All earthworks shall be graded at a minimum of 1% so that it drains to approved, permanent drainage systems. The works must at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with the applicable Construction Certificate application for approval by the Principal Certifying Authority (PCA).

[PCC0485]

21. Prior to the issue of a Construction Certificate, documentary evidence shall be submitted to the PCA demonstrating that a Controlled Activity Approval (CAA) under the Water Management Act 2000 has been obtained for any works within 40m of waterfront land (as defined under the Water Management Act 2000) or any works that involve an aquifer interference activity as defined under the Water Management Act 2000.

[PCC0575]

22. Site regrading and associated drainage is to be designed to address internal drainage on the site, as well as the conveyance of external catchments up to the Q100 storm event through the site, in a manner that does not adversely impact on upstream or downstream watercourses, or property or stormwater treatment management.

[PCC0675]

23. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the PCA prior to issue of the Construction Certificate (as applicable). Safe public access shall be provided at all times.

[PCC0865]

24. DELETED

- 24A. Prior to the issue of a Construction Certificate for Bulk Earthworks, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

(a) copies of compliance certificates relied upon

(b) Detailed engineering plans and specifications, prepared in accordance with Development Design Specification D13 - particularly Section D13.09. The detailed plans shall include (but are not limited to) the following, unless approved otherwise by the PCA:

- Earthworks
 - o Clearly showing pre and post development levels (spot levels and contours) at a legible scale.
 - o Compliance with the provisions of Council's Design Specification D6 - Site Regrading.
 - o Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise endorsed by Council.
 - o Compliance with the provisions of NSW RFS Planning for Bushfire Protection Guidelines 2006.
 - o Overall site earthworks are limited to a maximum disturbed area of 5ha that have not been appropriately stabilised (and excluding any dedicated road and the future Cobaki Parkway). The only exception is earthworks for Precincts 6, 7 and 9 which are permitted to disturb an additional 10ha (in addition to the existing quarry area located within Precinct 11 during the undertaking of the earthworks in Precincts 6, 7 and 9) for a limited period, in accordance with the schedule of works contained in the Arcadis Report dated 23 March 2017 (with Appendix B Engineering drawings being conceptual only and subject to council's final approval associated with Construction Certificate(s) for Bulk Earthworks). No earthworks are to be undertaken in the Precinct 11 quarry concurrently with the earthworks (as detailed in the Arcadis Report dated 23 March 2017) in Precincts 6, 7 and 9.
 - o Detailing how the Cultural Heritage Parks permanently free drain and will not be subject to flooding inundation.
 - o Cross sections provided through each proposed sedimentation basin to confirm suitable free drainage and capacity.
 - o Details confirming the permanent drainage of Rehabilitation / Management Area 8 (applicable to Construction Certificate for Precinct 9).

0 Including supporting calculations of proposed drainage swales to confirm compliance with the provisions of Council's Design Specification D5 - Stormwater Drainage Design (unless provided within the required SWMP).

- Stormwater drainage
- Landscaping works (as applicable)
- Sedimentation and erosion management plans
- Location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

25. Each Construction Certificate application for Bulk Earthworks shall include a detailed Erosion and Sediment Control Plan (ESCP), complimentary to the ESCP endorsed under the Concept Plan for the construction phase of the Bulk Earthworks, prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". All sedimentation basins are to be located offline of major storm event flowpaths, unless approved otherwise by the PCA.

[PCC1155]

26. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for the installation of any permanent stormwater quality control devices (including bio-filtration basins), prior to the issue of any associated Construction Certificate.

Where Council is requested to issue a Construction Certificate for subdivision ~~civil~~ works associated with this consent, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1195]

27. Prior to the issue of a Construction Certificate for Bulk Earthworks, all applicable Geotechnical Investigation Reports (prepared by registered Geotechnical Engineers) are to be consolidated into one single document and submitted to the PCA for endorsement.

In the absence of any compaction control documentation, any existing fill encountered on site over the Precincts applicable to this application shall be deemed "uncontrolled". Where Level 1 certification of these areas cannot be provided, the Proponent will be required to carry out rectification works by way of removal of the existing fill, back to a competent natural strata and re-compaction or replacement with a select fill, in accordance with Section 7.4 of the *Report On Geotechnical Investigation Report*, prepared by Douglas Partners, dated August 2015.

[PCCNS02]

28. Prior to the issue of a Construction Certificate for Stages 22 and 23 of the proposed bulk earthworks, the Stage 2 Contamination Assessment for Precinct 10 is to be submitted to Council. The Assessment must identify any contamination on site and provide for the completion of appropriate mitigation measures, as required by Condition C17 of the Concept Plan approval MP06_0316.

[PCCNS03]

29. The Site Regeneration and Revegetation Plan (SRRP), Vegetation management Plan (VMP) and Earthworks Plans are to be revised, to the satisfaction of Council, to address the requirements of the approved Overview Buffer Management Plan, including, but not limited to:

- Identification and retention of areas of existing vegetation, compatible with APZ requirements and consistent with Planning for Bushfire Protection guidelines.

- Detailed provisions for management of these areas during earthworks and on an ongoing basis.

30. The Vegetation Management Plan and Fauna Management Plan are to be revised, to the satisfaction of Council, to include detailed, precinct-scale maps at minimum 1:2000 scale at A4 size. Maps are to clearly identify:

- the boundaries of earthworks in relation to existing vegetation
- vegetation to be retained
- vegetation (including hollow-bearing trees) to be removed
- location of fencing in relation to existing vegetation

31. A site-wide review of onsite Endangered Ecological Community offset commitments is to be prepared to the satisfaction of Council, along with a revised offset package if the approved offsets are no longer able to be met.

32. The following management plans require amendment to the satisfaction of Council prior to the issue of a Construction Certificate:

Fauna Management Plan

- Revise Figure 7 Potential Habitat Trees to clearly distinguish between habitat trees to be retained and those to be removed.

Currently two habitat trees that are protected by a covenant area are identified as trees to be removed. This figure and any associated earthworks plans require revision to identify these as trees to be retained.
- Update the Plan to reflect the outcome of the Modification to the EPBC approval relating to offsets for Grey-headed Flying Fox habitat removal.
- Table 6 management measures - Nest boxes to be installed for microbats (n = 4-5) and owls (n = at least 3). The plan currently states that the number and location of these nest boxes will be determined after baseline survey. Table 8 states that baseline survey has been completed. Therefore, the number of boxes and suitable locations for these boxes should be identified within this plan. Installation of these boxes is to be included as a "prior to construction" action in Table 7 Implementation Table.
- Salvage of hollows is to be identified as a management measure.
- Proposed suitable locations for installation of salvaged hollows and compensatory nest boxes are to be provided in the plan. The plan is to provide guidance in terms of recipient tree selection. The plan is to provide an indication of the likely quantity of salvaged hollows and nest boxes so that timing and resources for relocation, nest box construction and monitoring can be estimated. The plan should detail the minimum compensatory requirements for each Precinct, to assist with monitoring and reporting.
- List installation of osprey nest poles in Table 7 - implementation table. Revise the plan to indicate which pole has been installed, and detail timing for installation of the other.
- Revise the corrective actions/responses table to reflect performance criteria and include actions or a commitment to undertaking action to rectify identified failures.
- Incorporate the provisions of the approved Fauna Management Plan for Precinct 6.

Vegetation Management Plan

- The action that is currently provided for situations where "sufficient area is not available to provide a buffer" (p16). Is to be removed.
- Mapping of the boundaries of Precinct 9 and the covenant area within Management Area 8 requires revision to remove overlap.
- Actions in the VMP are to be presented as precinct-specific. It should be made clear in the plan which actions relate to each precinct. For example, the plan should detail where hollow-bearing trees to be removed are located and where associated hollows and/or nest boxes are to be installed.
- The amount of fencing and number of nest boxes required are to be included in the plan.
- "As required" is stated as a frequency for a number of monitoring actions. More specific timing is requested for each action, and a reference to the location of further detail, if directed by another plan.

- Incorporate the provisions of the approved Vegetation Management Plan for Precinct 6.

Site Regeneration and Revegetation Plan

- The following detail is required: area measurements of buffer plantings, transparent overlays for APZ area and buffer polygons in Rehabilitation Areas 8 and 9, covenant area and associated planting buffer in the south of Precinct 9.
- Amend the plan to clearly identify areas that will not respond to assisted regeneration and schedule planting to occur as an initial action rather than after 12 months of assisted regeneration in these areas.
- Area 7 - The eastern portion of Rehabilitation Area 7 currently contains a road, sediment basin, and has been subject to significant modification. Engineering drawings depict drainage infrastructure overlapping the covenant protected area in the south. Figure 9 identifies this area as part of Rehabilitation Zone 7b. Figure 6 indicates intent to plant Swamp Sclerophyll Forest in the area currently occupied by a road, while Figure 9 does not include the road in any Rehabilitation Zone. The Plan requires amendment to clarify the intent of this Rehabilitation Area, including the covenant area, providing information regarding timing of works in this area and identify and justify any inconsistencies with the restoration intent as approved by the Concept Plan. Maps are to be updated accordingly.
- Area 8 - Text requires amendment to reference the appropriate planting list for the target community. An additional planting list may be required for Freshwater Wetland planting.
- Incorporate the provisions of the approved Site Regeneration and Revegetation Plan for Precinct 6.

Construction Environmental Management Plan

- The CEMP will require amendment to reflect changes in all other management plans.

33. Prior to the issue of a Construction Certificate the Acid Sulfate Soils Management Plan (ASSMP) is to be amended to the satisfaction of Council to incorporate the provisions of the approved ASSMP for Precinct 6.
34. Prior to the issue of a Construction Certificate the Groundwater Management Plan (GWMP) is to be amended to the satisfaction of Council to incorporate the provisions of the approved GWMP for Precinct 6.
35. In accordance with Condition C18 of Concept Plan MP06_0316, a detailed description is to be provided to the satisfaction of the General Manager or delegate demonstrating compliance with previous Tweed Shire Council consent conditions intended to preserve wildlife corridors and protect and offset threatened species, populations and ecological communities and their habitats outside of the Concept Plan habitat requirements, or relevant reasons (such as subsequent amendments) as to why compliance was not required or may be transferred to current DAs. Such description is to include extracts of all relevant plans referred to in the conditions listed below sufficient to understand the land areas of relevance to the conditions and any overlap with current applications. Additional offset must be proposed if clearing of native vegetation has been undertaken not in accordance with the below development consents. Conditions to be addressed are as follows:
- (a) D94/0438.04 Conditions 23, 24, 34a, 35, 36a, 37 and 38.
 - (b) K99/1124.06 Conditions 10, 15A, 30, 31, 41, 81, 83A, 90, 91, 92A, 93, 94A, 95A, 96, 97, 98, 99, 100, 101, 102A, 103, 104, 105, 106, 107, 108, 109 and Schedule B (National Parks imposed conditions via concurrence for Species Impact Statement).
 - (c) S94/0194 (as amended 29/08/2003) Conditions 42, 43, 45, 48, 50, 106, 110, 116, 162, 168, 211, 260, 310, 358 and 365.
 - (d) S97/0054.02 Conditions 19, 21, 26, 74, 80 and 82.

Where required the development consents are to be modified in accordance with Section 80A(1) of the Environmental Planning and Assessment Act and Regulations to be consistent with this consent.

[PCCNS04]

36. A Voluntary Planning Agreement between the applicant and OEH is to be approved prior to the issue of a Construction Certificate for bulk earthworks associated with stages immediately adjacent to the existing Scribbly Gum Reserve (Stages 9, 10, 11, 12 and 13).

[PCCNS05]

- 36.1 Prior to the Construction Certificate being issued, a detailed Blasting Monitoring Program prepared by a suitably qualified person in accordance with AS2187.2 - Explosives - Storage and use - Appendix A Blasting Management Plan and Records shall be

submitted to the satisfaction of Council's General Manager or delegate. The program must include how vibration and air overpressure levels will be measured at sensitive receivers throughout the blasting activity period and include contingencies in the event that performance limits are not met.

36.2 DELETED

36.2A Prior to the issue of a Construction Certificate, the Construction Environmental Management Plan (CEMP) is to be amended to the satisfaction of Council to incorporate the approved blasting management plans and monitoring program for Precinct 9, as well as the approved Dust Management Plan.

36.3 Each Construction Certificate application for Bulk Earthworks shall include a detailed Dust Management Plan prepared by a suitably qualified person. The Plan must include details of all necessary dust suppression processes and procedures to be implemented to prevent dust nuisance from all stockpiles, haul roads and exposed areas under construction.

PRIOR TO COMMENCEMENT OF WORK

37. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and advise the Principal Certifying Authority of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

38. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like under this development application, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

39. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCW0025]

40. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

41. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

42. DELETED

42A. Bulk Earthworks in accordance with the development consent must not be commenced until:

- (a) a Construction Certificate for the Bulk Earthworks has been issued in accordance with Council's Development Construction Specification C101 by:
 - (i) the Consent Authority, or

(ii) an Accredited Certifier, and

(b) the person having the benefit of the development consent:

(i) has appointed a Principal Certifying Authority,

(ii) has appointed a Certifying Engineer to certify the compliance of the completed works.

The Certifying Engineer shall be a Professional Engineer (Civil) with National Engineering Register (NER) or a Registered Surveyor. Documentary evidence is to be provided to Council demonstrating currency of the above accreditation, and

(iii) has notified the Consent Authority and the Council (if the Council is not the Consent Authority) of the appointment,

(iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor, Project Community Liaison Officer and Certifying Engineer is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

(c) the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the work.

[PCW0815]

43. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until a Final Practical Inspection has been undertaken by the PCA and the works accepted.

[PCW0835]

44. Prior to commencement of work on the site, all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area (where required) to the satisfaction of the Principal Certifying Authority. These measures are to be in accordance with the approved Erosion and Sedimentation Control Plan and adequately maintained throughout the duration of the approved works.

[PCW0985]

45. All relevant Terms of Approval of the Cobaki Estate Concept Plan (MP06_0316) approved by the Minister on 2 December 2010, and of Approval of the Cobaki Estate Project Application - Open Space (08_0200) approved by the Minister on 28 February 2011 must be satisfactorily completed, as applicable, prior to bulk earthworks commencing within areas of Precincts 6, 7, 8, 9, 10, 11 and 12, as applicable.

[PCWNS01]

45.1 A Dilapidation Report detailing the current general condition of all improvements on neighbouring allotments, within 850m of the proposed blast location, for each property where the property owner has provided their consent within 30 days of the request for the report, is to be prepared and certified by a suitably qualified and experienced structural engineer.

The Report (supported by recent photos) is to be submitted to and accepted by the Principal Certifying Authority prior to commencement of the first blast occurring under this consent.

DURING CONSTRUCTION

46. All proposed works are to be carried out in accordance with the conditions of development consent, approved Management Plans, approved Construction Certificates, drawings and specifications.

[DUR0005]

47. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.
- [DUR0015]
48. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.
- [DUR0025]
49. Construction work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:
- Monday to Saturday from 7.00am to 6.00pm
- No work to be carried out on Sundays or Public Holidays
- The proponent is responsible to instruct and control subcontractors regarding hours of work.
- [DUR0205]
50. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
- $L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.
- $L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
51. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.
- [DUR0225]
52. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.
- Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.
- [DUR0405]
53. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.
- [DUR0415]
54. All earthworks and filling shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1.

The earthworks and filling shall also be undertaken in accordance with the recommendations provided in the consolidated *Geotechnical Investigation* (as required by Consent Condition No. 27) and monitored by a Registered Geotechnical Testing Consultant.

[DUR0795]

55. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

[DUR0815]

56. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council's General Manager or his delegate.

[DUR0985]

57. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material deposited on the roadway by construction vehicles will be at the Developers expense and any such costs are payable prior to the PCA undertaking of a Final Practical Inspection of the works.

[DUR0995]

58. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:

- Noise, water or air pollution.
- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

59. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction and operation of the development.

[DUR1025]

60. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

61. Any damage caused to public infrastructure (roads, footpaths, services, etc) during construction of the development shall be repaired in accordance with Council's Development Design and Construction Specifications prior to the PCA undertaking of a Final Practical Inspection of the works.

[DUR1875]

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

Stormwater Quality Control Devices (other than proprietary devices)

For detail refer to Water By Design - Technical Guidelines

- (a) Earthworks and filter media

- (b) Structural components
- (c) Operational establishment
- (d) Mechanical/electrical
- (e) Commissioning - On Maintenance
- (f) Off Maintenance

The PCA's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "Accredited Certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all subdivision works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

63. The developer/contractor is to maintain a copy of the development consent, approved Management Plans and Construction Certificate approvals including plans and specifications on the site at all times.

[DUR2015]

64. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the 1% Compliance Bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

65. All waters that are to be discharged from the site during dry weather periods and wet weather periods up to the Q3 month rain event (as defined in Council's Design Specification D7 - Stormwater Quality) shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

[DUR2435]

66. DELETED

- 66A. Dust and Erosion Management

- (a) Overall site earthworks are limited to a maximum disturbed area of 5ha that have not been appropriately stabilised (and excluding any dedicated road and the future Cobaki Parkway). The only exception is earthworks for Precincts 6, 7 and 9 which are permitted to disturb an additional 10ha (in addition to the existing quarry area located within Precinct 11 during the undertaking of the earthworks in Precincts 6, 7 and 9) for a limited period, in accordance with the schedule of works contained in the Arcadis Report dated 23 March 2017 (with Appendix B Engineering drawings being conceptual only and subject to council's final approval associated with Construction Certificate(s) for Bulk Earthworks). No earthworks are to be undertaken in the Precinct 11 quarry concurrently with the earthworks (as detailed in the Arcadis Report dated 23 March 2017) in Precincts 6, 7 and 9. Completed areas are to be topsoiled and seeded immediately to protect them from water and wind erosion.

- (b) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- (c) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to the PCA on request.

[DUR2825]

67. The Developer must establish a monitoring program, including reporting to determine the pollutant removal efficiencies of the proposed treatment devices, as per section D7.A12 of the TSC Development Design Specification - D7 Stormwater Quality and if further treatment of the stormwater drainage system is required to ensure the preservation of water quality in Cobaki Creek and Cobaki Broadwater.

Additionally;

- o water shall not be released from detention basins until samples have been analysed and shown to meet the criteria outlined in the ESC Program, and.
- o regular (three monthly) water quality testing is to be undertaken within the wetland in the vicinity of any discharge points to ensure that acceptable water quality parameters are maintained.

[DURNS01]

68. Erosion and Sediment Control

All erosion and sediment control measures are to be effectively implemented and maintained at or above design capacity for the duration of the construction works, and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

All activities on the site shall be undertaken with the objective of preventing discharge of sediment and other pollutants to lands and/or waters (the receiving environment) during construction activities. In particular the proponent shall ensure all practicable measures are taken to prevent contaminated stormwater from adversely affecting the water quality of Cobaki Creek and Cobaki Broadwater.

[DURNS02]

69. All land for residential development is to be filled to a level no less than the next highest 0.1m Design Flood Level contour, as determined from the latest, approved Cobaki Design Flood Level Map - "Q100 - Extent of Flooding" Drawing A443-BE7-SK01 Rev B (prepared by Sedgman), unless notified otherwise by Council.

[DURNS03]

70. All works shall be carried out in accordance with the Acid Sulfate Soils Management Plan or amendments to this Plan as prepared by SMEC dated September 2015.

71. Where groundwater is intercepted as a result of earthwork operations, groundwater discharges and or dewatering operations shall be managed in accordance with the Groundwater Management Plan prepared by SMEC dated June 2015.

72. All works shall be carried out in accordance with the provisions of the Construction Environment Management Plan prepared by SMEC dated September 2015.

73. A registered Fauna spotter-catcher is to be present during all vegetation clearing works to ensure safe dispersal of fauna.

[DURNS04]

- 73.1 Blasting operations shall be carried out in accordance with the following documents:

- *Blast Management Plan & Control for Cobaki Lakes - Precinct 9 prepared by Heilig & Partners Pty Ltd dated April 2017*

(Project Number HP1703-02);

- *Blast Management Plan for Leda Developments, Piggabeen Rd, Piggabeen prepared by Donnelly Blasting Services - Total Safety Management Services dated March 2017 (Version 3);*
- *Safety Work Method Statement prepared by Donnelly Blasting dated March 2017 (Version 3); and*
- *approved Blasting Monitoring Program,*

except where varied by Council's General Manager or delegate or conditions of consent.

- 73.2 Blasting operations shall comply with the Australian and New Zealand Environment Council (ANZEC) guideline Technical basis for guidelines to minimise annoyance due to blasting overpressure and ground vibration (September 1990), AS2187.2 - Explosives - Storage and use, and the requirements of SafeWork NSW and NSW Environmental Protection Authority.
- 73.3 The use of explosives shall be in strict accordance with the requirements of SafeWork NSW and the blasting explosives user must hold a valid NSW Blasting Explosives User Licence.
- 73.4 Blasting measurement reports shall be provided to Council's General Manager or delegate upon request.
- 73.5 Hours of operation for blasting activities are limited to the following unless otherwise permitted by Council's General Manager or delegate:
- *9.00am to 5.00pm Monday to Saturday*
 - *No blasting shall take place on Sunday or public holidays.*
 - *Blasting is limited to no more than one blast per day, with a maximum of 10 blasts within a 12 month period.*
- 73.6 Upon completion of all blasting approved under this consent, a second Dilapidation Report is to be prepared by a suitably qualified engineer to ascertain if any structural damage has occurred to property, the subject of the original Dilapidation Report.

The Report is to be compared against the original Dilapidation Report (supported by photos cross referenced to the original Dilapidation Report) and recommend a course of action to carry out repairs, if required. The Report is to be submitted to the Principle Certifying Authority, within 3 months of the last blast occurring for the extraction of 40,000m³ of blasted material from Precinct 9.

PRIOR TO COMMENCEMENT OF FUTURE RESIDENTIAL SUBDIVISIONS OVER PRECINCTS 6, 7, 8, 9, 10 11 & 12

74. Prior to commencement of future residential subdivisions over Precincts 6, 7, 8, 9, 10, 11 & 12, all works/actions/inspections etc required by other conditions or approved Management Plans or the like shall be completed in accordance with those conditions or plans.
75. Prior to commencement of future residential subdivisions over Precincts 6, 7, 8, 9, 10, 11 & 12, Work as Executed Plans of the undertaken Bulk Earthworks shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) undertaken earthworks are consistent with the approved Bulk Earthworks Construction Certificates and are contained wholly within the subject site;
- (b) the plans accurately reflect the Work as Executed.

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

76. Prior to commencement of future residential subdivisions over Precincts 6, 7, 8, 9, 10, 11 & 12 and prior to request for a Final Practical Inspection for each completed portion of Bulk Earthworks, a certificate of compliance, certifying that:
- the site is stable,
 - 100% of primary consolidation settlement (where applicable) is completed / achieved,
 - the earthworks and filling have been inspected and compacted to a Level 1 standard in accordance with AS 3798 (current version), and
 - the site is considered suitable for its intended use.
- The submission shall include copies of all undertaken test results.
77. Prior to commencement of future residential subdivisions over Precincts 6, 7, 8, 9, 10, 11 & 12, the PCA must undertake a Final Practical Inspection of the complete bulk earthworks and be satisfied that all conditions of consent have been complied with.
78. All approved landscaping requirements must be completed to the satisfaction of the PCA prior to request for a Final Practical Inspection of the applicable Bulk Earthworks.
79. DELETED
- 79A Any damage to public property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate prior to request for a Final Practical Inspection of the applicable Bulk Earthworks. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the applicable Final Practical Inspection being undertaken.
80. The applicant must apply to Council (or PCA if applicable) for a Compliance Certificate for Subdivision Works. This may require obtaining individual Compliance Certificates for various civil works components such as (but not limited to) the following:
- (a) Drainage
 - (b) Bulk Earthworks
 - (c) Retaining Walls
- Note:
- 1. All compliance certificate applications for Subdivision Works must be accompanied by documentary evidence from the developers Certifying Engineer, certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the Construction Certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
 - 2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "Accredited Certifier".
81. At the completion of each bulk earthworks phase and prior to issue of any future Subdivision Certificate the "Q100 - Extent of Flooding" Drawing (also referred to as the Design Flood Level Map) shall be updated to include Works As Executed levels for bulk earthworks and any other works that may affect flood behaviour and submitted to Council for endorsement.
- The submission shall be certified by a practising Civil Engineer with National Engineers Register (NPER) registration.
82. Bulk Earthworks shall not be accepted by the PCA until all applicable consent conditions have been satisfactorily addressed and the PCA has conducted a Final Practical Inspection and issued a Certificate of Compliance noting no outstanding matters to be

addressed.