

## ASSESSMENT REPORT

### Cobaki Estate Residential Community Development Concept Approval MP 06\_0316 (MOD 4)

#### 1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan Approval MP 06\_0316 (MOD 4) for a residential community development, referred to as 'the Cobaki Estate' at Cobaki Lakes in the Tweed local government area (LGA).

The request has been lodged by Leda Manorstead Pty Ltd (the Proponent), pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to make changes to the school sites, the commercial centres and the cultural heritage parks. The proposal also seeks to remove an existing restriction on cat ownership.

#### 2. SUBJECT SITE

Cobaki Estate is located on the New South Wales and Queensland border approximately 1.5 kilometres west of the Gold Coast Airport and approximately six kilometres inland of Tweed Heads. The site location is shown in **Figure 1**.



Figure 1: Site location

Adjoining the site to the east is a wetland protected by *State Environmental Planning Policy No.14 – Coastal Wetlands*, as well as the waterway of Cobaki Creek and the Cobaki Broadwater. Remnant bushland forest areas lie to the west and north of the site and are zoned for environmental protection. Agricultural land primarily used for cattle grazing adjoins the site to the south and to the north-west. To the south-west is a golf course, which is zoned for rural purposes.

### 3. APPROVAL HISTORY

#### 3.1 Concept Plan

On 6 December 2010, the then Minister for Planning approved the Concept Plan for Cobaki Estate including a residential development for approximately 5,500 dwellings, a town centre and neighbourhood centre, utility infrastructure, road corridors, open space and environmental protection areas (refer to **Figures 2 and 3**).

The Concept Approval is consistent with the strategic planning framework for the site as it would contribute to the delivery of housing supply within the Tweed LGA and enhance environmental values by securing 194 hectares of land for environmental protection purposes.

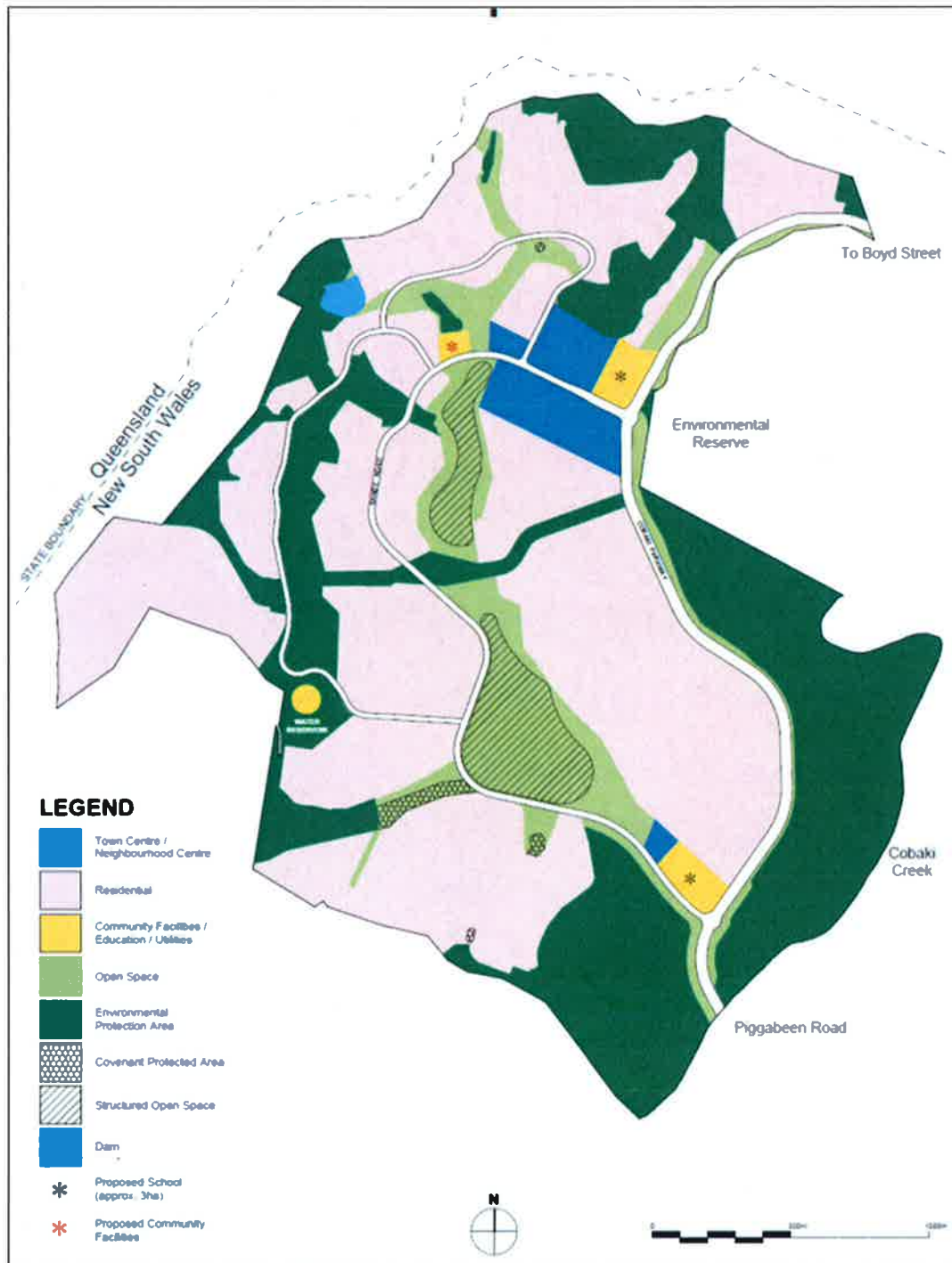


Figure 2: Approved Concept Plan layout (Source: Approved Concept Plan)

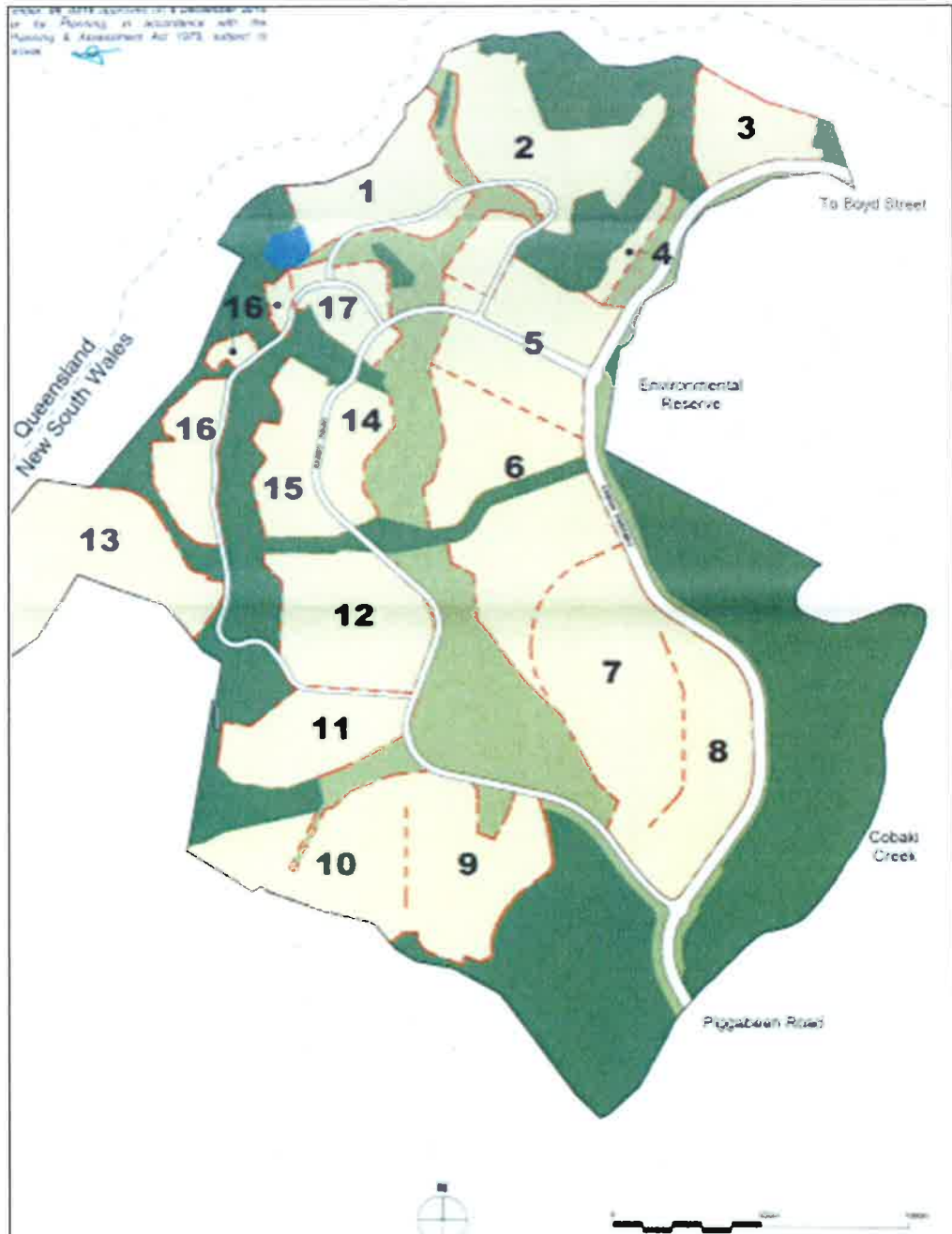


Figure 3: Approved Precinct Location Plan (MP 06\_0316) (Source: Approved Concept Plan)

The Concept Plan has been the subject of a number of modification requests as set out in Table 1.

Table 1: Summary of modification requests

MOD	Modification	Date Approved / Current Status
1	Include new biodiversity offset arrangements and various administrative changes to conditions	29 May 2013
2	Accommodate a university campus on the site	Withdrawn
3	Reclassification of the vegetation community	SEARs issued
5	Changes to allow private water and wastewater services	Under Assessment
6	Increase the building heights	SEARs issued
7	Changes to the Cobaki Development Code	Under Assessment
8	Increase the building heights	Preparing SEARs

### 3.2 Project Application

On 28 February 2011, the then Deputy Director-General, as delegate of the Minister for Planning, granted a Project Approval (MP 08\_0200) for:

- subdivision of the Cobaki estate into 7 lots
- staged bulk earthworks to create the central open space (COS) area, riparian corridor, structured open space, and future stormwater drainage area
- road forming works and culverts crossing the central open space and saltmarsh areas and trunk sewer and water services
- revegetation and rehabilitation of environmental protection areas for coastal saltmarsh
- establishment of freshwater wetland and fauna corridors.

This Project Approval has been modified on three occasions. **Table 2** provides a summary of the modifications.

**Table 2:** Summary of modifications to Project Application

MOD	Modification	Date Approved
1	<ul style="list-style-type: none"><li>• amendments to offsetting arrangements, including changes to management plans; and</li><li>• use of fill from Precincts 1 &amp; 2 for the formation of the COS.</li></ul>	29 May 2013
2	<ul style="list-style-type: none"><li>• the winning of 600,000m<sup>3</sup> of fill from Precincts 9 &amp; 11 (500,000m<sup>3</sup> from Precinct 9 to complete Stage 1 earthworks within the COS area and 100,000m<sup>3</sup> from Precinct 11 to complete Stages 2 &amp; 3 earthworks within the COS area).</li></ul>	3 April 2014
3	<ul style="list-style-type: none"><li>• bulk earthworks to fill a 4.3 hectare area located within the southern part of the Cobaki Estate, known as the Southern Special Purpose Precinct (SSPP)</li></ul>	13 February 2015
4	<ul style="list-style-type: none"><li>• changes to conditions to allow a Private Waste Water Treatment Plant to service the Cobaki Estate.</li></ul>	Under assessment
5	<ul style="list-style-type: none"><li>• modifications to an approved fencing plan</li></ul>	Refused on 12 April 2017

### 4. PROPOSED MODIFICATION

The Proponent lodged a section 75W modification request seeking approval to:

- replace two school sites with one centrally located school site
- enlarge the size of the commercial areas of the Cobaki Town Centre and the Southern Special Purpose Precinct (SSPP) by extending into the former school sites
- reconfigure the SSPP, and include a registered club and childcare centre use on the site
- remove one of the 10 cultural heritage parks nominated in the Cultural Heritage Management Plan (CHMP) and enlarge another, resulting in a net increase in land for cultural heritage parks.
- remove the current prohibition on the keeping of cats and include restrictions on cat ownership and control
- correct minor errors in the calculation of the Open Space and Environmental Protection Areas.

The proposed modification is detailed below in **Tables 3 and 4** and **Figures 4 to 8**.



**Table 3: Summary of proposed modification**

<b>Proposed Modification</b>	<b>Detailed Description</b>
Extension to Town Centre in Precinct 5	<ul style="list-style-type: none"> <li>The Town Centre will be extended to the east and replace the Northern School Site in Precinct 5.</li> <li>The size of the town centre would increase from 16.68 ha to 20.75 ha.</li> </ul>
Replace two school sites with one school site	<ul style="list-style-type: none"> <li>The two school sites (3.19 ha and 3.34 ha) are proposed to be consolidated into one site at a new location in Precinct 6 comprising an area of 3.22 ha.</li> <li>The new school site will replace previously approved residential land in Precinct 6.</li> </ul>
Southern Special Purpose Precinct (SSPP) and inclusion of registered club and child care centre	<ul style="list-style-type: none"> <li>The SSPP on the corner of Cobaki Parkway and Sandy Road will be reconfigured to replace the previous Southern School Site in Precinct 8.</li> <li>The commercial area of SSPP would increase from 1 ha to 4 ha and would include: <ul style="list-style-type: none"> <li>a Registered Club and a Child Care Centre over 3 ha in the eastern part of the SSPP</li> <li>a neighbourhood shop site occupying approximately 6000 m<sup>2</sup> in the western part of the SSPP.</li> </ul> </li> </ul>
Changes to residential areas	<ul style="list-style-type: none"> <li>The residential area in Precinct 8 will be extended to replace the previous neighbourhood shop site.</li> <li>The residential area in Precinct 6 would be reduced by 3.22 ha to make way for the new amalgamated school site.</li> <li>Overall residential land would reduce by 2.65 ha.</li> </ul>
Minor changes to other calculated land use areas	<ul style="list-style-type: none"> <li>No physical changes are proposed to Public Open Space or Environmental Protection Areas, however the proposal incorporates minor changes to the calculated size of these areas (refer to <b>Table 4</b>).</li> <li>The changes correct errors in the previously calculated size of these land use areas.</li> </ul>
Cultural Heritage Parks Precinct 8	<ul style="list-style-type: none"> <li>One of ten approved cultural heritage parks is proposed to be removed.</li> <li>Of the ten approved parks, seven are located within conservation areas and three within urban areas. It is proposed to remove one of the three urban parks and use the area for residential development.</li> <li>It is also proposed to increase the size of one of the remaining urban parks, resulting in an overall increase in the total area of cultural heritage parks from 7,471 m<sup>2</sup> to 8,074 m<sup>2</sup>.</li> </ul>
Restriction on the keeping of cats	<ul style="list-style-type: none"> <li>The current prohibition on the keeping of cats imposed under Future Development Application Requirement C14 is proposed to be modified to permit a maximum of two cats per residential premises and containment at night between 5:00 pm and 6:00 am.</li> </ul>

**Table 4: Summary of proposed changes in the land use areas**

<b>Concept Plan Land Use</b>	<b>Approved (ha)</b>	<b>Proposed (ha)</b>	<b>Net change (+/-ha)</b>	<b>Net change (%)</b>
Town Centre/Neighbourhood Centre	17.64	24.75	+7.11	+ 40%
Residential	290.47	287.82	-2.65	- 0.01%
Community/Education/Utilities	8.04	4.91	-3.13	- 39%
Public Open Space	88.84	88.64	-0.20	- 0.002%
Environmental Protection Area	188.27	187.14	-1.13	- 0.006%

The proposal would not:

- increase the approved development footprint
- increase the maximum number of dwellings (5,500) permitted on the site
- increase the maximum height of 3 storeys which currently applies across the site
- alter the approved major road alignments
- make any changes to approved earthworks, ground levels or affect flooding on the site.

All future development on the site would be subject to future development applications to Council.

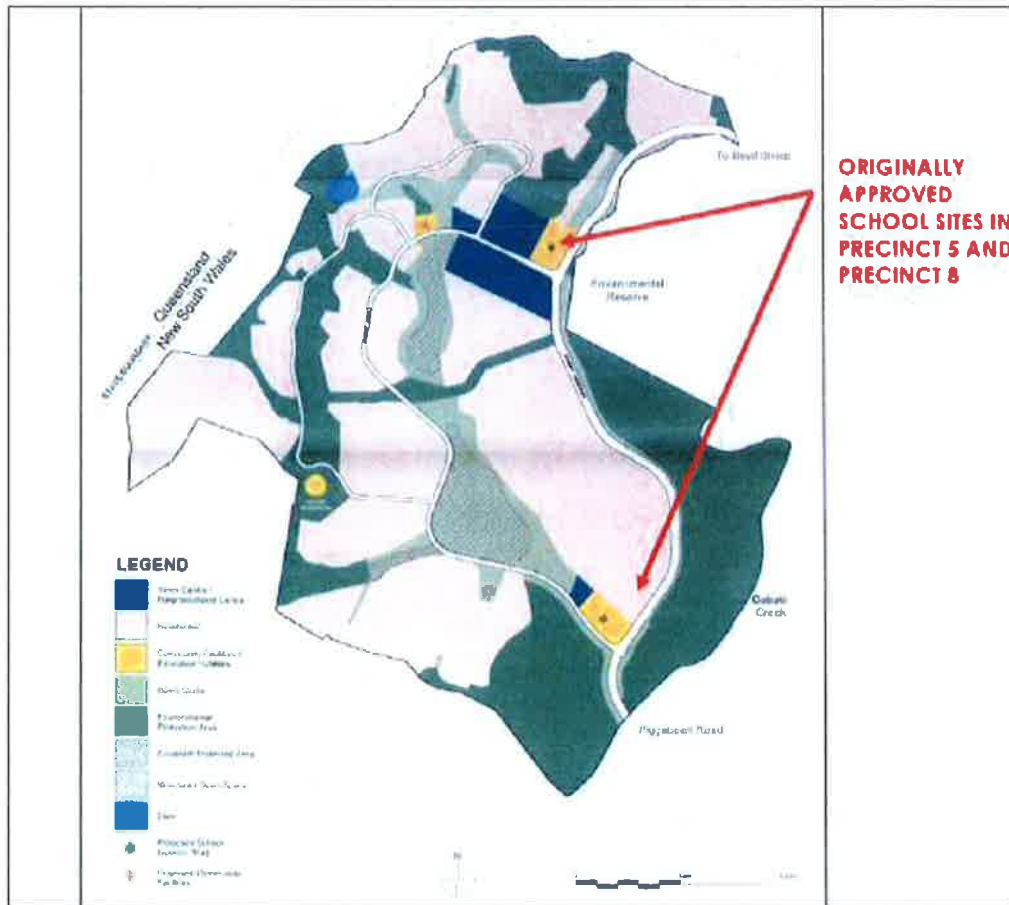


Figure 4: Approved layout (Source: Approved Concept Plan)

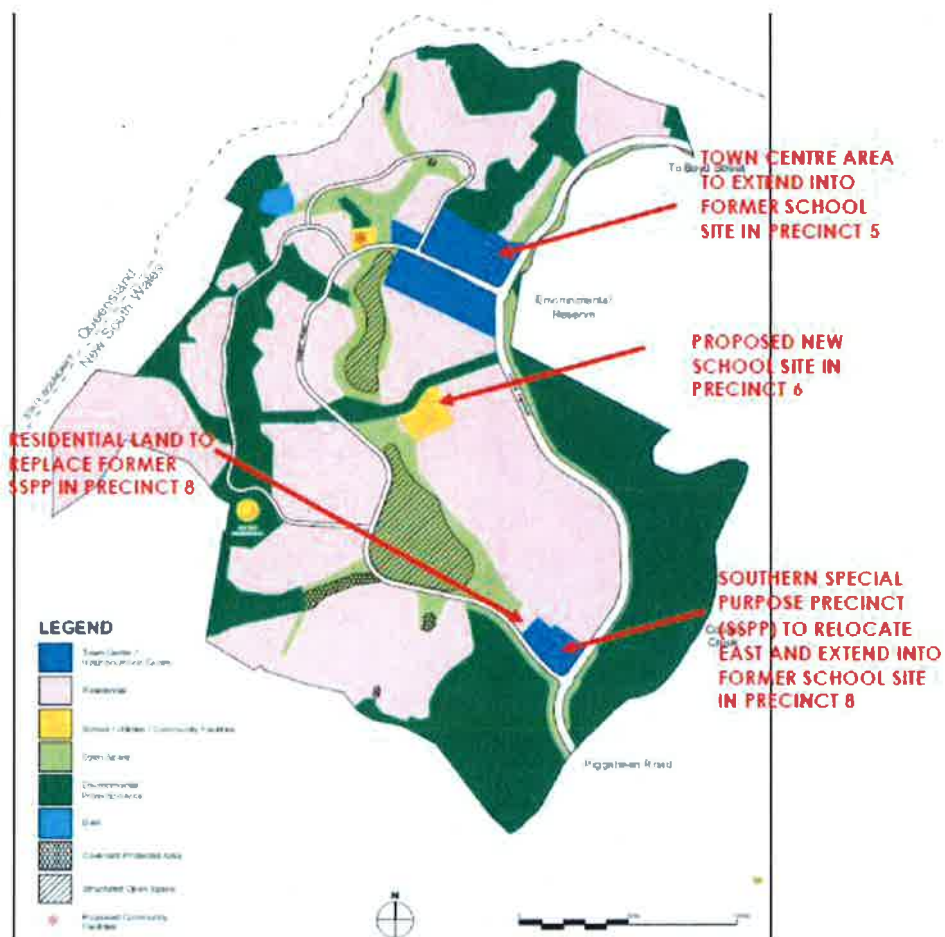
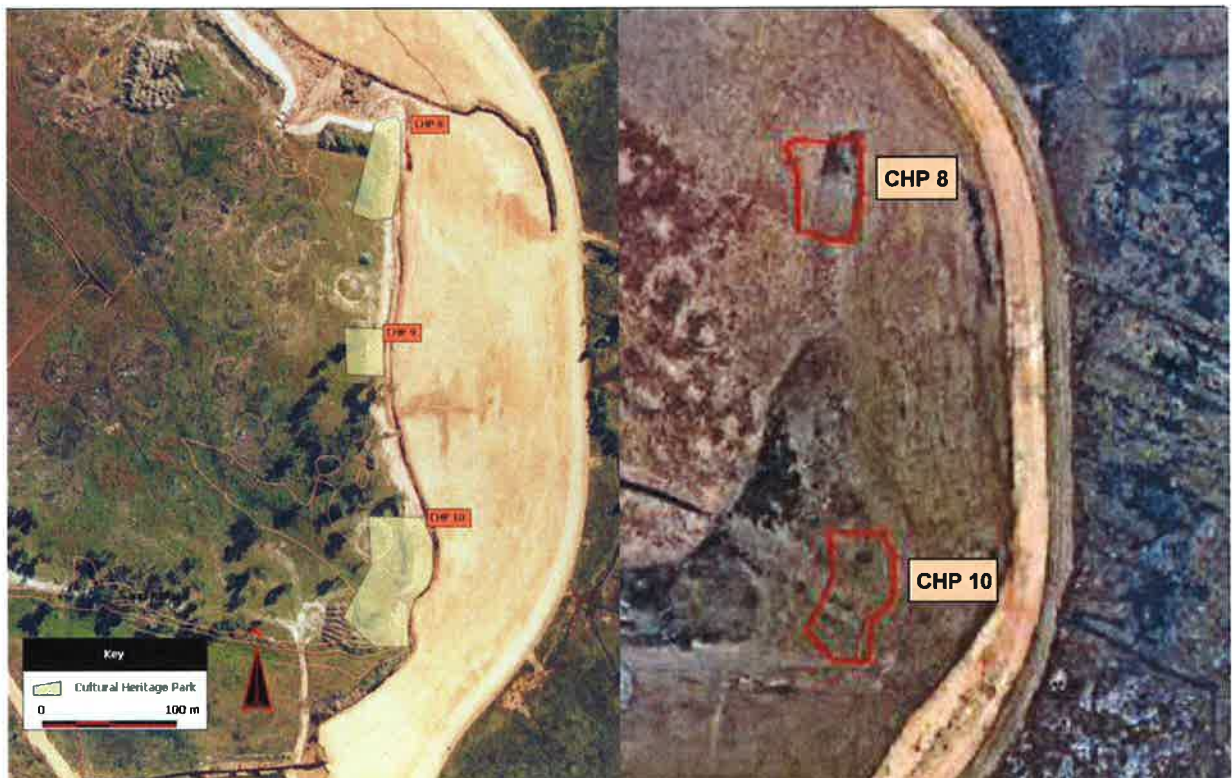


Figure 5: Proposed layout (Source: MOD 4 Application documents)



**Figure 6:** Layout of proposed SSSP Registered Club, Child Care Centre, and Neighbourhood shops in precinct 8 (Source: MOD 4 Application documents)



**Figure 7:** The three approved Cultural Heritage Parks in urban areas (Source: Approved Concept Plan Documents)

**Figure 8:** The proposed two urban Cultural Heritage Parks (red outline) (Source: MOD 4 Application documents)

## 5. STATUTORY CONSIDERATION

### 5.1 Section 75W

The application was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former Section 75W of the Act. The Department is satisfied the proposed changes are within the scope of Section 75W of the EP&A Act, and the proposal does not constitute a new application.

### 5.2 Approval Authority

The Minister for Planning is the approval authority. However, the Planning Assessment Commission may determine the modification request under delegation as Council object to an aspect of the proposal.

## 6. CONSULTATION

The Department publicly exhibited the proposal for 14 days between 16 June 2017 and 29 June 2016 on the Department's website, at the Department's Information Centre, and at Tweed Shire Council's Murwillimbah and Tweed Heads offices. The Department also consulted with Tweed Shire Council (Council), Transport for New South Wales (TfNSW), Roads and Maritime Services (RMS), Department of Education (DE) and the Office of Environment and Heritage (OEH) about the proposed modification. The Department also notified adjacent landowners of the application.

**Council** does not support the Proponent's request to remove the prohibition on the keeping of cats imposed under the C14 Requirement for Future Applications of the Concept Approval. Council also provided comments in relation to CHMP, traffic matters, and changes to the land use areas.

**TfNSW** raises no objection to the proposal, noting it would not have a significant impact on the regional road system. However, it recommends the design of the internal road network in accordance with Austroads requirements to enable bus access to the school site.

**RMS** raises no objection to the proposal, noting the traffic impacts associated with the changes are minor, and would not have any significant impact on the wider road network.

**DE** supports the consolidation of the two school sites into one location in Precinct 6, and raises no objection regarding the other aspects of the proposal. DE also provided comments in relation to access to the site in NSW and the preferred mechanism for the transfer of the school land to the DE

**OEH** does not support the Proponent's request to remove the prohibition on the keeping of cats. OEH also recommends amendments to the management protocols in the CHMP to the effect that agreement would be obtained from OEH prior to any future works or changes that would impact the Cultural Heritage Parks in Precinct 8.

A total of eighteen (18) **public submissions** were received objecting to the proposal. The majority of these submissions (80 per cent) object to the removal of the prohibition on the keeping of cats due to the impacts on native fauna and the environment. Concerns were also raised in relation to:

- the expansion of the town centre and the additional impacts in terms of noise and traffic congestion on the surrounding area
- the introduction of a Registered Club and the cumulative impacts associated with licensed premises in the region including anti-social behaviour



- the consolidation of the two primary school sites into one larger site and the adverse impact on education outcomes
- the proposed changes to the Cultural Heritage Parks in Precinct 8.

## 7. RESPONSE TO SUBMISSIONS

The Proponent provided a Response to Submissions (RtS) to address issues raised in submissions and provide additional information regarding the proposed changes to the prohibition on the keeping of cats and changes to the CHMP to address Council's comments.

## 8. ASSESSMENT

The Department considers the key assessment issue relates to:

- the proposed land uses changes
- the environmental risk associated with the removal of the prohibition on the keeping of cats.

All other issues are considered in **Table 5**.

### 8.1 Changes to Land uses

The proposal seeks approval to make the following changes to the approved land uses on the site:

- Extend the town and neighbourhood centres into the former school sites (being areas zoned for residential purposes under Tweed Local Environmental Plan 2014 (LEP 2014).
- Provide a childcare centre and registered club within the neighbourhood centre.
- Extend the residential area into the former neighbourhood shops site within the SSPP.
- Consolidate two school sites into a single centrally located school site within the residential zone.
- Reduce the land available for residential purposes.
- Make minor corrections to the Open Space and Environmental Protection Areas.

The Department has considered the above changes against the strategic planning framework for the site established by the Concept Plan, Regional Plan and the LEP 2014. The Department notes the proposed changes would result in some inconsistencies with the land use zones in LEP 2014, however the Concept Plan would override the provisions of the LEP, as provided by Clause 3B of the transitional provisions set out under Schedule 6A of the EP&A Act. The merits of the proposed changes to each land use are considered in detail below.

#### Town Centre

The Department notes the proposed modification results in a 40% increase in commercial land from 17.64 ha to 24.75 ha (with approximately half of the additional land located in the town centre and half located in the SSPP). The original Concept Plan application envisaged the provision of up to 9,500 m<sup>2</sup> of retail space and 2,500 m<sup>2</sup> of commercial space being provided over 17 ha of the town centre / commercial land for daily shopping and service needs of residents. However, the modification has not identified if the proposed increase in commercial land translates to an increase in retail or commercial floor space.

An assessment of retail centres submitted with the original application identified the Cobaki site, with an expected population of 12,000 persons, could support a town centre with a retail area of 6,000 m<sup>2</sup> to 10,000 m<sup>2</sup> and commercial floor space of 2,000 m<sup>2</sup> to 3,000 m<sup>2</sup> without adverse impacts to the viability and higher order functions of other centres in Tweed Heads and South Tweed. This floor space was in addition to the small neighbourhood shops within the SSPP.

The Department considers the proposed increase in the size of the town centre should not translate to increased commercial or retail floor space above the recommendations of the previous assessment as it could potentially impact on the hierarchy of centres within the Tweed. The Department therefore recommends a new Future Development Application Requirement to ensure floor space in the Town Centre is restricted to a maximum of 10,000 m<sup>2</sup> for retail and 3,000 m<sup>2</sup> for commercial development. Subject to this requirement, the Department is satisfied the proposed increase in the size of the town centre would not result in adverse impacts to the function of other nearby centres.

### Neighbourhood Centre

The proposal seeks approval to extend the commercial area of the neighbourhood centre (known as the SSPP) into the former school site. The additional commercial land within the SSPP is proposed to be used as a registered club and childcare centre, while the size of the 'neighbourhood shops' would be slightly reduced.

The Department notes childcare centres are already permissible throughout the Cobaki site under the Concept Approval on all residential and commercial land. The Department therefore considers a proposed childcare centre within the SSPP would be an appropriate use to support the needs of future residents in Cobaki.

The size of any future registered club in the SSPP is not yet known and will be the subject of a future development application. The Department considers a registered club is a typical land use for residential communities of this size (12,000 persons) and could provide appropriate recreation and entertainment opportunities for the future residents of Cobaki. The Department therefore considers a registered club would be an appropriate use for the site and the scale of the club and its impacts can be appropriately considered during the assessment of a future Development Application by Council.

Public submissions raised concerns about the expanded town centre and the registered club potentially resulting in additional impacts such as noise and traffic, and anti-social behaviour (associated with the club).

The Department notes the town centre and registered club would both be located more than 600 metres from the nearest existing residential premises and therefore would not impact on the amenity of neighbours outside of the site. The Department considers any potential internal amenity impacts associated with these uses can be appropriately addressed as part of future development applications. As discussed below in Section 8.4, the Department also considers that traffic impacts can be adequately managed as part of future applications.

Subject to the recommended Future Development Application Requirements, the Department therefore considers the proposed changes to the Town Centre and Neighbourhood Centre are acceptable.

### Consolidation of School Sites

The proposal seeks approval to consolidate two primary school sites in Precincts 5 and 8 into a single site in Precinct 6. The Proponent advises the modification is a result of consultation with NSW DE which advised that it no longer requires two primary school sites within the Cobaki Estate.

Concerns were raised in the public submissions that the reduction in school sites would have an adverse impact on the quality of education for students.

DE is supportive of the change and has raised no objection to the general location, shape and size of the modified school site. DE advised that only one school site is required on the basis that:

- future school planning now takes place across wider geographic areas and that some of

the student demand at Cobaki may be taken up by schools located outside of the development site

- DE has revised its design approach to schools, with a preference for efficient use of sites to accommodate larger schools rather than multiple sites for smaller schools.

As the proposal aligns with DE's requirements, the Department is satisfied the proposal is consistent with DE's policies and therefore appropriate education outcomes would be achieved.

The Department considers the proposed school site is well located, being central within the Cobaki development and adjacent to the central open space area, providing good amenity for the school and separation from surrounding residential uses on two sides.

TfNSW noted the new school location would be away from collector roads and would require local road links for access. Concern was raised that local street carriageway widths of 7.5 m to 9 m may not permit bus access if on-street parking is permitted. As such, TfNSW recommended road widths be increased to incorporate 3.5 m wide lanes for bus travel and 3.0 m wide lanes for parking and bus stops.

The Proponent's traffic consultant considers an increase in road width is not appropriate given the expected low volume of traffic on these streets. The traffic consultant also advises the school is predicted to generate a low volume of bus movements, and there are not expected to be any bus routes in the surrounding area.

The Department notes existing term of approval C16 requires future applications to include adequate provision for public transport, including buses, based on a draft access network plan. Although an updated plan was submitted with the modification, it has not included any potential bus routes to the school site. The Department recommends term of approval C16 be updated to take account of the revised plan, but also include a requirement for the provision of adequate bus services to the new school site. Subject to the updated term of approval, the Department is satisfied the detailed consideration of road widths for school buses can be appropriately determined as part of future applications.

The Proponent has advised the school site will be acquired by DE on commercial terms under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*. However, DE advises its preference is for the site to be dedicated at no cost under a Voluntary Planning Agreement.

The Department considers the proposed modification to the school location does not give rise to a requirement for changes to the dedication arrangements for the school, and as per the existing approval, arrangements for future dedication of the school site remains a matter for negotiation between DE and the Proponent.

DE also raise concerns regarding access to the site from adjoining localities in NSW. DE notes if the connecting southern access road (which is not required to be provided until after 3000 lots have been developed on the site) is not provided at the outset, then the only access into the site would be via Queensland, presenting problems in terms of travel distances to existing nearby schools as well as school bus services.

The Department notes access to the site was considered in detail in the assessment of the original application and is subject to a number of deeds of agreement with Gold Coast Council, Tweed Shire Council and the Queensland Government. The Department considers the proposed modification to the school location does not generate any specific need to bring forward the delivery of the road connection.

### Residential

The proposal would result in a small net reduction in the amount of land identified for residential purposes (from 290.5 to 287.82 ha).

Despite the reduction in the area of land available for residential purposes the overall yield of 5,500 residential dwellings is unlikely to be altered, as additional medium density shop-top housing is intended to be provided within the Town Centre area, which will be expanded by approximately 3 ha. The Department is therefore satisfied the proposed change to residential land is minor and would not impact on future housing supply within the site.

### Changes to Open Space and Environmental Protection Areas

Minor changes to the calculated areas of the Open Space and Environmental Protection Areas are proposed to rectify previous errors in the calculated size of these areas. The corrections represent less than a 1% change in the total area of Open Space and Environmental Protection. The Department is satisfied the updated figures are based on detailed survey work, and provide an accurate depiction of the approved Concept Plan areas.

### Conclusion

Overall, the Department considers the proposed changes to the land uses are acceptable, subject to recommended limits on the commercial and retail floor space. The Department considers the proposal would continue to achieve the strategic planning objectives of the original approval and the Regional Strategy as it would continue to deliver additional housing with appropriate amenities and services, while at the same time protecting the environmentally sensitive parts of the site. The Department therefore supports the proposed changes to the land use mix, and considers it provides an appropriate balance of residential, commercial, open space and community uses to support the future Cobaki community, without any adverse amenity impacts.

## **8.2 Cat Prohibition**

The proposal seeks to modify Future Development Application Requirement C14 to remove a prohibition on the keeping of cats. Instead the proposal seeks to include restrictions on cat ownership and control, permitting a maximum of two cats to be kept at each residential premises with containment at night time between 5:00 pm and 6:00 am. The Proponent also commits to provide an education / information package to all of its residents on responsible cat ownership and undertake an annual monitoring program for five years.

The Proponent seeks to delete the prohibition on the basis that cat ownership results in social and health benefits. The Proponent also states the prohibition on the keeping of cats in other LGAs in the region is limited and only applied in significantly smaller residential estates.

The Proponent's ecological consultant advises cats could be kept with minimal impact on native wildlife and suggests a range of measures which could be implemented to manage the impact of cats such as:

- construction of a cat proof fence along the edge of the urban estate
- prevention of cats from roaming by keeping indoors or in a specially designed 'cat yard' with strict and continuous monitoring and enforcement and consideration given to 24 hour cat containment
- mandatory registration with microchips and mandatory desexing
- cats to wear several bells
- management of stray cats with government supervised community trapping programs
- education and signage for residents to encourage responsible cat ownership.

Council advise its monitoring data from managed peri-urban bushland areas in the LGA has recorded regular and repeated incursions of roaming domestic cats, despite existing partial cat restrictions on neighbouring residential properties. The partial (night time) restrictions have therefore not been successful and it is only in cases where there is a complete prohibition on



the keeping of cats where there has been acceptable outcomes. On this basis, Council does not support the removal of the prohibition on the keeping of cats. Council also raises concern with the education, compliance and management burden that would be placed on Council if the cat prohibition were removed.

OEH considers the cat prohibition should be retained as the Proponent has not provided any suitable alternative conservation measures to address the potential biodiversity impacts associated with incursions of domestic cats in surrounding bushland areas.

The Department notes the intention of Future Development Application Requirement C14 prohibiting the keeping of cats is to minimise the environmental risk to native fauna from incursions by domestic cats into the bushland areas and to protect the biodiversity values of the area. This was part of a suite of measures proposed by the Proponent at the time of the original application to minimise the biodiversity impacts of the development. The Department notes the site and surrounding area provide habitat for numerous threatened species. The Proponent's revised ecological assessment, submitted as part of the Concept Plan application, identified the wallum froglet, the wallum sedge frog, the bush hen, the planigale, and the long-nosed potoroo as threatened species on and surrounding the site which would all potentially be at increased risk from cats.

The *Draft Pest Animal Management Review* dated March 2016 undertaken by the Natural Resources Commission notes feral cat populations are readily established by a few stray domestic founders, and are recognised as having severe effects on native fauna.

The Department acknowledges there are social and health benefits associated with keeping domestic pets and these benefits must be balanced against the potential impacts on native fauna, noting the site and surrounding area provides habitat for numerous threatened fauna species.

The Department also notes other domestic pets, such as dogs, are permitted on the site, providing opportunities for similar health and social benefits without the same level of impact on native fauna.

The Department's assessment therefore concludes there is insufficient evidence to demonstrate the proposed containment strategy and management measures could be effectively implemented to prevent the incursion of cats into surrounding bushland and to prevent stray cats from becoming feral. Further, Council's evidence demonstrates such partial measures have not been successful elsewhere, and complete prohibition has been the only successful way to protect native fauna and biodiversity values. The Department therefore concludes removal of the prohibition on the keeping of cats imposed under C14 Requirement for Future Applications could therefore result in significant adverse impacts on the native fauna and the overall biodiversity values of the site and surrounding area. On this basis, the Department does not support removing the prohibition on keeping cats.

### 8.3 Other Issues

**Table 5: Assessment of other issues**

<b>Issue</b>	<b>Consideration</b>	<b>Recommendation</b>
<i>Traffic Impacts</i>	<ul style="list-style-type: none"> <li>• The Proponent submitted a Traffic Impact Assessment (TIA) to assess the impact of traffic generated by the proposed land uses including the Registered Club, child care centre and the new school site.</li> <li>• The results show there would a slight increase in traffic in the southern part of the proposed road network as a result of the new commercial uses. However, there would be a negligible impact on the road network outside of the Cobaki Estate.</li> <li>• Both TfNSW and Council raised concerns with the TIA modelling. However, TfNSW advises it is satisfied the modification is unlikely to have an adverse impact on the regional road system, and therefore does not require additional modelling.</li> <li>• Council also advised the modification can be supported on traffic grounds, subject to more detailed traffic assessments being prepared and submitted with future development applications for subdivisions and the future school and childcare / registered clubs sites.</li> <li>• The Department is satisfied the proposed changes are not significant in the context of the existing Concept Approval, and the proposal would not result in any significant traffic impacts on the surrounding external road network. Further, existing Requirement for Future Applications C11 requires detailed traffic assessments to be prepared and submitted with each future development application to consider and mitigate the impacts of development on the wider road network.</li> <li>• With regard to local roads, the Department recommends future development applications for subdivision development of the school, childcare and registered club, include a detailed traffic impact assessment to further consider the local traffic impacts and identify if any internal road improvements are needed.</li> <li>• Subject to the recommended requirement, the Department is satisfied the proposed land use changes would not result in any adverse traffic impacts and traffic can be adequately managed as part of future applications.</li> </ul>	<p>Requirement for Future Applications C11 (Traffic Management) is recommended to be modified to include a requirement for the future development applications for subdivision and the school, registered club and child care centre sites to be accompanied by a detailed traffic impact assessment.</p>
<i>Aboriginal Cultural Heritage</i>	<ul style="list-style-type: none"> <li>• The current approval includes ten cultural heritage parks to ensure a sample of Aboriginal cultural heritage material located on the site would be retained. Of the ten parks, seven would be located within the conservation areas and three located within urban areas.</li> <li>• The proposal seeks to remove one of the cultural heritage parks, and increase the size of another. Both parks are located within the urban area of Precinct 8 (see <b>Figures 7 and 8</b>).</li> <li>• The Proponent has advised the changes to the cultural heritage parks have been based on updated data and have been identified in consultation with Aboriginal stakeholder groups. Further, in support of the proposal, the Proponent notes the modifications would result in a net increase in the total area of protection from 7,471 m<sup>2</sup> to 8,073 m<sup>2</sup>.</li> <li>• Council raised no objection to the proposed change in the park location or size, but recommended some changes to the CHMP to provide clarification of the dedication and long term maintenance arrangements for these areas. The Proponent has updated the CHMP accordingly.</li> <li>• OEH supports the change, but recommends amendments to the management protocols in the CHMP requiring agreement to be obtained from OEH prior to any future works or changes</li> </ul>	<p>A condition is recommended requiring amendments to the management protocols in the CHMP to the effect that agreement would be obtained from OEH prior to any future works or changes that could result in further harm the Cultural Heritage Parks.</p>

<i>Issue</i>	<i>Consideration</i>	<i>Recommendation</i>
	<p>that could impact on the cultural heritage parks.</p> <ul style="list-style-type: none"> <li>• The Proponent advises only ground disturbance works involving revegetation would be undertaken in these areas. The Proponent also advises that sufficient archaeological information has been provided to demonstrate these works can be undertaken without any harm occurring to aboriginal objects, noting that significant heritage deposits are approximately 1.5 m below ground surface.</li> <li>• The Department acknowledges the Proponent's advice that no harm would occur within the parks. Nevertheless, the Department agrees with OEH that it is prudent to adopt a precautionary approach and include a requirement to ensure that if other works are proposed in the future which may cause harm, they be subject to further approval from OEH. An appropriate condition has been recommended to this effect.</li> <li>• Overall, the Department considers the net increase in the size of the cultural heritage parks, as well as the size of the park containing the known archaeological deposits results in an overall improvement for heritage conservation on the site.</li> </ul>	
<i>Built Form/Visual Impact</i>	<ul style="list-style-type: none"> <li>• The Department is satisfied there will be no significant visual change to the overall future built form of the Concept Plan site as a result of this modification, noting: <ul style="list-style-type: none"> <li>○ the three storey building height which applies across the site is not sought to be modified</li> <li>○ the urban footprint will not change</li> <li>○ all future buildings would be subject to separate approval under Part 4 of the EP&amp;A Act.</li> </ul> </li> </ul>	No additional conditions or amendments necessary.

## 9. CONCLUSION

The Department has assessed the modification request and supporting information in accordance with the relevant requirements in the EP&A Act.

The Department does not support the Proponent's request to remove the prohibition on the keeping of cats due to the potential impact on native fauna and the biodiversity values of the site and surrounding area. Therefore C14 Requirement for Future Applications is recommended to be retained in the Concept Approval in its current form.

However, the Department's assessment concludes the other changes requested as part of the proposed modification are appropriate on the basis that it would:

- provide for a range of land uses appropriate to service a residential community
- provide a new school site to meet the requirements of DE with good amenity adjacent to open space
- increase the area of cultural heritage protection
- maintain the integrity of the main Town Centre as the focus of commercial and retail activities
- not adversely affect the existing road network or infrastructure arrangements approved under the Concept Plan
- maintain an appropriate urban design outcome and not change the overall future built form
- not result in any material changes to environmental impacts compared to the approved Concept Plan.

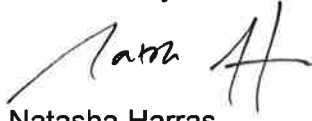
Consequently, the proposal is in the public interest and it is recommended that the modification be approved subject to the recommended conditions.

## 10. RECOMMENDATION

It is recommended that the Planning Assessment Commission, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report, noting the Department considers the modification request is reasonable
- **determines** the Proponent's request is a modification under Section 75W of the EP&A Act
- if the Commission determines to modify the approval under Section 75W of the EP&A Act, **signs** the notice of modification (**Appendix A**).

Endorsed by:



Natasha Harras  
Acting Director  
Modification Assessments

Approved by:



Anthea Sargeant 4/8/17  
Executive Director  
Key Sites and Industry Assessments