



Mr Hugo Harmstorf
Chief Executive Officer
IPART
PO Box K35
Haymarket Post Shop NSW 1240

16/10166

Dear Mr Harmstorf

Your Ref: D17/12308 Northern Water Solutions Pty Ltd Operations and Retail Suppliers Licence Application

I refer to your letter to the Hon Anthony Roberts MP, Minister for Planning dated 11 April 2017, regarding an application by Northern Water Solutions Pty Ltd for a network operator's and retail supplier's licence in relation to the servicing of a new residential development, "Cobaki Estate" at Tweed Heads. I also refer to further correspondence provided to the Department on this matter dated 26 May 2017. I apologise for the delay in responding to the letters.

I note the licence application refers to the development of a *Sewage Reticulation System, Water Supply System and Water Reticulation System* within Cobaki Estate (MP 06_0316) Cobaki Lakes, Piggabeen Road, Tweed Heads. The application also relates to the construction of a *Sewage Treatment Plant, Sewage Reticulation System, Water Recycling Facility and Water Supply System* within No. 425 Piggabeen Road, Lot 1 DP874316 which is located opposite the Estate.

The Department issued concept approval (MP06_0316) under (Part 3A) for Cobaki Estate on 6 December 2010. The Minister's delegate is also the consent authority in relation to several modifications to the Concept Plan. Details of the original approval and the approved modifications are available at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1090

The Department is currently considering Modification No. 7 which seeks to amend the Concept Plan to facilitate changes to the Cobaki Estate Development Code including updated residential development provisions and definitions. The modification to the Concept Plan includes provision for reticulation of water within the Estate. Tweed Shire Council is the consent authority for each subsequent subdivision stage of the Cobaki Estate following granting of Concept Approval.

Detailed responses to matters 1 to 4 raised in IPART's letter are provided in the attached schedule, including details of the Department's compliance activity in relation to Cobaki Estate.

Should you have any questions in relation to this correspondence, please contact Karen Harragon, Director Social and Other Infrastructure Assessments at the Department on

[REDACTED]

Yours sincerely

[REDACTED]

David Gainsford 13/6/17 .
Executive Director
Priority Projects Assessments

Schedule 1

Point 1.

IPART have identified two companies that are of relevance to the license request, Leda Holdings Pty Ltd and Leda Manorstead Pty Ltd, who wholly own Northern Water Solutions Pty Ltd.

Leda Manorstead Pty Ltd have been the subject of penalty notices and orders issued by the Department's Compliance Branch in relation to non-compliance, under the *EP&A Act*. The Department's Compliance actions are detailed in the following table:

Enforcement History Leda Manorstead Pty Ltd at Cobaki Estate

Date	Action	Reason
18 January 2013	\$3,000 penalty notice	Failure to appoint a private certifying authority prior to earthworks commencing
	\$3,000 penalty notice	Failing to obtain a construction certificate prior to earthworks occurring
6 February 2013	Order issued	Installation of Cobaki parkway without approval which impacted saltmarsh area
9 July 2014	Order issued	In relation to rectifying flow in saltmarsh area
11 January 2016	\$15,000 penalty notice	Failure to fence environmentally sensitive area during earthworks activities
11 April 2016	\$15,000 penalty notice	Failure to finish fencing of environmentally sensitive area
11 April 2016	Order issued	To finalise fencing of environmentally sensitive area
13 March 2017	\$15,000 penalty notice	Removing soil and rock material from Cobaki Estate without consent

Should you have any questions in relation to the Department's compliance activity referenced in this letter please contact Kirsty Ruddock, Director Compliance at the Department on [REDACTED]

Point 2.

The infrastructure associated with the sewerage reticulation system, recycled water reticulation stems and sewage treatment plant /water recycling facility fall within the definitions under Division 18, clause 105 of the *State Environmental Planning Policy (Infrastructure) (ISEPP) 2007*. Water reticulation system fall under Division 24, clause 124 of the ISEPP.

The relevant definitions are as follows:

- *Sewage system* means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these;
- *Sewage treatment plant* means a facility for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply;
- *Sewage reticulation system* means a facility for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of treated water for use or disposal, including associated pipelines and

tunnels, pumping stations, dosing facilities, odour control works, sewage overflow structures and vent stacks;

- *Water recycling facility* means a facility for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water; and
- *Water supply system* means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

No. 425 Piggabeen Road, Lot 1 DP874316 is zoned RU2 – Rural Landscape under Tweed Local Environment Plan (LEP) 2014 (Map No LZN_014). The RU2 – Rural Landscape zone is a prescribed zone for the purpose of Clause 105 of the *ISEPP*. Under Clauses 106(1) and 106(2) of the *ISEPP* respectively, a licensed network operator could develop a sewage treatment plant and a water recycling facility within a prescribed zone, without consent under the *ISEPP*. *Under Clause 106* a licensed network operator could develop a sewage reticulation system within any zone without consent.

A licensed network operator would require development consent from Tweed Shire Council to develop a water supply system within the RU2 – Rural Landscape zone.

Cobaki Estate is zoned R1 – General Residential, R2 – Private Recreation, B2 – Local Centre under Tweed LEP 2014 (Map No LZN_014). Part of the Estate also contains land mapped as “deferred matters” in the LEP 2014, to which the LEP 2000 continues to apply. The ‘deferred matter’ land under the LEP 2000 are zoned 7d – Environmental Protection (Scenic/Escarpment)’. Under Clause 106(3) of the *ISEPP* a licensed network operator could develop a *sewage reticulation system* on any land within its licensed area without consent. Under Clause 106(2)(b) of the *ISEPP* a licensed network operator could develop a *water recycling facility*, without consent within land “*where the development is ancillary to an existing land use*”. IPART would need to be satisfied that the development is ancillary to an existing land use prior to granting a licence.

A licensed network operator would require development consent from Tweed Shire Council to develop a water supply system within Cobaki Estate.

Should you have any questions in relation to the Department’s recent and current assessment of modifications for this site, please contact Anthony Witherdin, Director Modification Assessments at the Department on [REDACTED] Matters relating to the status of any subsequent development approval should be raised with the relevant consent authority tweed Council

Point 3 and Point 4.

The Department advises that Cobaki Estate is a mixed use residential community with environmental protection areas containing a number of sensitive environmental areas, including threatened flora and fauna species listed under the Threatened Species Conservation Act 1995 and endangered ecological communities. The site also lies adjacent to Cobaki Broadwater which is identified as Coastal Wetlands under State Environmental Planning Policy No 14 – Coastal Wetlands.

In determining the concept approval, the Department imposed several conditions of consent on the Part 3A approval relating to the protection and management of environmental issues. This included a requirement that all future applications (whether determined by Council or the Department) include stage-specific Construction Environmental Management Plans detailing measures to address construction impacts, including the protection of fauna and vegetation to be retained on the site.

Should you have any questions in relation to original Concept Plan or the Department's recent and current assessment of modifications for this site, please contact Anthony Witherdin, Director Modification Assessments at the Department on [REDACTED]