



Our ref: 17/15115  
Your ref: D17/25154

Mr Rob O'Neill  
General Manager  
Licensing & Compliance  
IPART  
PO Box K35  
Haymarket Post Shop NSW 1240

Dear Mr O'Neill

**Your Ref: D17/25154 Northern Water Solutions Pty Ltd Operations and Retail Suppliers Licence**

I refer to your letter dated 17 October 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, "Kings Forest" within the Tweed Shire Council local government area. I apologise for the delay in responding to this letter.

I note the licence application seeks approval for the development of a *Sewage Reticulation System, Water Supply System and Water Reticulation System* within Kings Forest, Kingscliff.

The Department issued Concept Plan approval (MP06\_0318) under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for Kings Forest on 19 August 2010. The Minister's delegate is also the consent authority in relation to several modifications to the Concept Plan. Details of the approval, the approved modifications and applications presently being considered are available at:  
[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=1339](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1339)

The Department is currently considering Modification No. 7 Concept Plan which seeks to facilitate changes to permit the future development of a sewage treatment plant and water recycling facility on the site and to amend the relevant associated provisions of the *State Environmental Planning Policy (State Significant Precincts) 2005*. The modification request to the Concept Plan also seeks to modify the provisions for reticulation of water within the site. Tweed Shire Council is the consent authority for each subsequent subdivision stage of Kings Forest in accordance with the Concept Plan approval.

Detailed responses to matters 1 to 4 raised in IPART's letter are provided in the attached schedule.

Please note that a prosecution has been commenced by the Secretary against Leda Manorstead Pty Ltd in June 2017 in the Land and Environment Court, however this is yet to be determined.

Should you have any further questions in relation to this matter, please contact Anthony Witherdin, Director – Modification Assessments at the Department on [REDACTED] (in relation to the approvals) or Kirsty Ruddock, Director – Compliance at the Department on [REDACTED] (in relation to compliance matters).

Yours sincerely

[REDACTED]

David Gainsford 28/11/17  
**Executive Director**  
**Priority Projects Assessments**

## Schedule 1

### Point 1 (approvals to date and approvals required)

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

Under Clauses 106(1), 106(2) and 106(3) of the ISEPP, a licenced network operator may carry out development of a sewage treatment plant and/or water recycling facility on land in a prescribed zone without consent. A licenced operator may carry out sewage reticulation systems without consent on any land.

The site of the proposed sewage treatment plant and water recycling facility is currently zoned 'Residential 2(c) Urban Expansion' under State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP) and a sewage treatment plant is therefore currently prohibited under the SSP SEPP, and is not a 'prescribed zone' for the purposes of the ISEPP. The Concept Plan approval which applies to the site identifies the land as a future school site and therefore also prohibits the development of a sewage treatment plant and water recycling facility.

The Department is presently considering a modification request to amend the Concept Plan approval to permit the development of a sewage treatment plant and water recycling facility. However, the Department has identified a number of issues with the modification request and is awaiting further information from the Proponent, Project 28 Pty Ltd, a subsidiary of Leda Manorstead Pty Ltd, before assessment of the modification progresses. If the modification request is supported, the Department would also amend the zoning under the SSP SEPP. If this occurs, a licenced operator could then carry out development of a sewage treatment plant and water recycling facility as development without consent in a 'prescribed zone' under the ISEPP.

The development of a water supply system not undertaken by a public authority would require consent. Northern Water Solutions would require development consent to develop a water supply system at Kings Forest.

Should you have any questions in relation to the Concept Plan approval or the assessment of modifications for this site, please contact Anthony Witherdin, Director – Modification Assessments at the Department on [REDACTED]. Matters relating to the status of subsequent subdivision and development approvals should be raised with the relevant consent authority, being Tweed Shire Council.

Point 2 and Point 3 (unacceptable environmental risks & conditions in relation to the protection of the environment)

The Department advises that Kings Forest is a mixed use residential community with significant environmental protection areas, containing a number of sensitive environmental assets, including threatened flora and fauna species listed under both the *NSW Threatened Species Conservation Act 1995* and *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999*.

In determining the Concept Plan, the Department imposed several conditions of consent requiring the development of management plans relating to the protection and management of environmental assets. This also included a requirement that all stages of the development include stage-specific management plans detailing the measures to address construction impacts, including the protection of fauna and vegetation to be retained on the site.

In considering the proposed modification to the Concept Plan approval, the Department may also incorporate additional conditions to mitigate any potential impacts from the sewage treatment plant and water recycling facility, should the modification request be approved. The Department is awaiting further information from the Proponent to assess the impacts of the proposal before a recommendation or conditions can be determined.

Should you have any questions in relation to the conditions of the Concept Plan approval, please contact Anthony Witherdin, Director – Modification Assessments at the Department on [REDACTED].

Point 4 (Compliance matters)

IPART have identified four companies that are of relevance to this licence request; Leda Holdings Pty Ltd, Leda Manorstead Pty Ltd, Northern Water Solutions and Project 28 Pty Ltd.

Both Project 28 Pty Ltd and Northern Water Solutions Pty Ltd are wholly owned by Leda Holdings Pty Ltd and Leda Manorstead 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 **Table 1**.

Table 1 Enforcement History – Leda Manorstead Pty Ltd

Date	Action	Reason
18 January 2013	\$3,000 penalty notice	Failure to appoint a private certifying authority prior to earthworks commencing at Cobaki Estate.
	\$3,000 penalty notice	Failure to obtain a construction certificate prior to earthworks commencing at Cobaki Estate.
6 February 2013	Order issued	Installation of Cobaki Parkway without approval, which impacted the saltmarsh area at Cobaki Estate.
9 July 2014	Order issued	Required to rectify flows within the saltmarsh area at Cobaki Estate.
11 January 2016	\$15,000 penalty notice	Failure to fence environmentally sensitive areas during earthworks activities at Cobaki Estate.
11 April 2016	\$15,000 penalty notice	Failure to finish fencing environmental sensitive areas at Cobaki Estate.
11 April 2016	Order issued	Required finalisation of the fencing of environmentally sensitive areas at Cobaki Estate.
13 March 2017	\$15,000 penalty notice	Removal of soil and rock material from Cobaki Estate without consent.

Should you have any questions in relation to the Department's compliance activity in within **Table 1**, please contact Kirsty Ruddock, Director – Compliance at the Department on [REDACTED].