
DAC PLANNING PTY LTD
Suite 7, Corporate House
8 Corporation Circuit
Tweed Heads South NSW 2486
P: 07 5523 3611
F: 07 5523 3612
E: admin@dacplanning.com.au
W: www.dacplanning.com.au



+ SECTION 75W MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06_0316 (MOD 10)

COBAKI ESTATE CONCEPT PLAN – PROPOSED RESIDENTIAL SUBDIVISION

At Sandy Lane, Cobaki Lakes

• Prepared For: **Leda Manorstead Pty Ltd** | • Prepared by: **DAC Planning Pty Ltd** | • February 2018 |

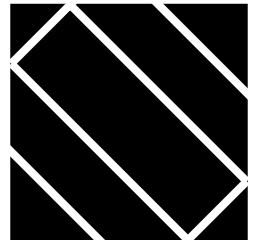


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ANNEXURES

ANNEXURE A	The Keeping of Cats and Appropriate Cat Management Measures Within Residential Areas – JWA Ecological Consultants Pty Ltd, November 2014
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MODIFICATION OF CONCEPT PLAN APPROVAL NO. 06_0316 (MOD 10)

PROPOSED COBAKI ESTATE RESIDENTIAL DEVELOPMENT AT SANDY LANE, COBAKI LAKES

EXECUTIVE SUMMARY

The subject land is described as the Cobaki Estate, which is located adjacent to the New South Wales/Queensland border and has a total area of approximately 600 hectares. The legal description of the Cobaki Estate is Lot 1 in DP 570076; Lot 2 in DP 566529; Lot 1 in DP 562222; Lot 1 in DP 570077; Lot 1 in DP 823679; and Lots 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228 and 305 in DP 755740. Land surrounding the Cobaki Estate includes the State Border Reserve to the north and west, environmental land and the Cobaki Broadwater to the east and Cobaki Creek and Rural Residential and grazing land to the south and southwest.

The Cobaki Concept Plan No. 06_0316 relates to a proposed residential development of approximately 5,500 dwellings including town centre and neighbourhood centres; community facilities and school sites; open space; wildlife corridors; protection and rehabilitation of environmentally sensitive land; road corridors and utility services infrastructure; water management areas; and roads and a pedestrian and bicycle network.

The MOD4 Application included, among other things, modification of Condition C14 to allow for the keeping of cats however, modification of Condition C14 was not supported by the Planning and Assessment Commission (PAC). This Modification Application (MOD 10) requests a reconsideration of the previous decision to allow for the keeping of cats.

1.0 INTRODUCTION

Leda Manorstead Pty Ltd has commissioned DAC Planning Pty Ltd to prepare an application for modification (MOD 10) of Concept Plan Approval No. 06_0316, which relates to a residential subdivision at Cobaki Estate.

This MOD 10 application proposes modification of the current prohibition on the keeping of cats to instead provide appropriate restrictions on cat ownership and control within the estate.

2.0 DOMESTIC CATS

The proponent has provided the following information in relation to the keeping of domestic cats at the Cobaki Estate:

"Issues in relation to the keeping of cats at Cobaki were not raised in any of the reports that formed part of the Concept Plan application or in any of those that accompanied the subsequent Preferred Project Report.

In response to the public exhibition of the Cobaki Estate Concept Plan in 2009, no submissions were received from any State Agency or Tweed Shire Council to the effect that the keeping of domestic cats at Cobaki should be prohibited.

Only two submissions were received from members of the public advocating such a prohibition.

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Leda volunteered this restriction. (How this occurred cannot be determined as the relevant staff of JBA Consulting, who dealt with the application, are no longer with the organisation). In no meaningful sense was this restriction considered as a component of a package of biodiversity conservation measures as part of the Concept Plan approval.

Nevertheless, the Concept Plan approval of 6 December 2010 included the following condition:

C14 Restrictions on Cats

All future development applications must demonstrate that the keeping of cats within the Cobaki Lakes site shall be totally prohibited and that all residential lots are to be encumbered to the effect with a Section 88B instrument under the NSW Conveyancing Act 1919.

The Proponent now seeks to have this condition removed.

The Proponent has obtained a report by JWA Pty Ltd, Ecological Consultants – The Keeping of Cats and Appropriate Cat Managing Measures within Residential Areas, November 2014 - which contains the following conclusion:

"It is considered that the keeping of cats within residential developments can be achieved with minimal impact to native wildlife by the implementation of appropriate community education (outlining the precautionary approach underlying cat controls), applying management regulations and implementing active control of stray cats where necessary".

Tweed Shire Council's webpage (www.tweed.nsw.gov.au/cats) provides information on the registration and micro chipping of cats and guidelines for cat ownership.

A restriction on the keeping of cats is not a condition normally applied by Tweed Shire Council to subdivisions within the Shire, or by other local Councils throughout NSW.

It is submitted that a prohibition on the ownership of cats at Cobaki Estate is unnecessary and unreasonable."

It is important that the social benefits of cat ownership be taken into consideration. There is a strong emotional connection between cat-owners and their pets, and the many positive psychosocial effects associated with cat ownership have been documented.

A complete ban on cat ownership would be a disproportionate response to any environmental damage associated with the keeping of cats. A selective ban lacks a broader policy foundation. In the Tweed Shire and in the NSW community generally there is no general move to ban cats in either existing or new urban developments.

Tweed Shire Council itself promotes responsible cat ownership.

A copy of the report prepared by JWA Ecological Consultants is attached as **Annexure A**. Pamphlets which Tweed Shire Council currently distributes are also included in **Annexure A**.

Existing regulatory controls relating to the keeping of domestic cats include the following Acts:

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NSW Companion Animals Act 1998 - Provides under Part 2 for the compulsory identification and registration of companion animals. Part 4 of that Act specifically refers to responsibilities for control of cats including actions to protect persons and animals against cats. Part 7A relates to enforcement powers and Part 8 for identification and registration procedures.

Impounding Act 1993 – Provides power to impound animals which are unattended in public places.

Local Government Act 1993 – Provides power for Council to erect and enforce notices restricting the taking of animals into a public place and to make orders restricting the number of animals to be kept at premises.

In order to minimise negative impacts on wildlife from keeping of domestic cats at Cobaki Estate the applicant is prepared to accept a modified condition whereby all future residential lots to be created under the Concept Plan are to be encumbered with a Section 88B Instrument under the *NSW Conveyancing Act 1919* to the effect that:

- the keeping of cats on any residential premises shall be restricted to a maximum of two cats, and
- between the hours of 5.00pm of a day and 6.00am of the day following, any cat shall be kept within the premises or an enclosure within the lot, such that the cat is prevented from leaving the premises or lot.

The proposed modification to Condition C14 *Restriction on Cats* is provided in **Section 3.0** of this Report.

3.0 DESCRIPTION OF AMENDMENTS REQUIRED TO THE APPROVED DOCUMENTATION

3.1 Condition C14

Existing Condition C14:

“C14 Restrictions on Cats

All future development applications must demonstrate that the keeping of cats within the Cobaki Lakes site shall be totally prohibited and that all residential lots are to be encumbered to this effect with a Section 88B instrument under the NSW Conveyancing Act 1919.”

For the reasons identified within this Modification Request Report, the Department is requested to delete Condition C14 and insert a new Condition C14A as follows:

Amended Condition C14A:

C14A Restrictions on Cats

All future development applications must demonstrate that the keeping of cats at any residential premises within the Cobaki Lakes site shall be restricted to a maximum of two cats and that between the hours of 5.00pm of a day and 6.00am of the day following, any cat shall be kept within the premises or an enclosure within the lot, such that the cat is prevented from leaving the premises or lot. All residential lots are to be encumbered to this effect with a Section 88B Instrument under the NSW Conveyancing Act 1919.

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4.0 SUMMARY AND CONCLUSION

The Cobaki Estate comprises a major Urban Release Area which will ultimately deliver up to 5500 dwellings and a range of associated commercial services and facilities. The Cobaki Estate Concept Plan will facilitate development of the site in an orderly, co-ordinated and economic manner.

The proposed amendment of Condition C14 is supported by a Report prepared by JWA Ecological Consultants, which outlines the social benefits of domestic cat ownership in urban areas, outlines the impacts associated with feral cats on native fauna and provides a range of management measures. The keeping of domestic cats is also able to be suitably controlled under the powers provided by existing legislation and by a modified condition placing restrictions on cat ownership.

The proposed modification to Condition C14 of the Concept Plan has been prepared to give effect to MOD 10.

It is therefore concluded, having regard to the foregoing information, that the project is generally consistent with relevant statutory planning controls and compliant with contemporary urban design standards and ESD principles. Approval of MOD 10 would therefore be sustainable and in the public interest.

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