



Redland
CITY COUNCIL

AGENDA

GENERAL MEETING

Wednesday, 21 October 2015
commencing at 9.30am

The Council Chambers
35 Bloomfield Street
CLEVELAND QLD

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The Mayor is the Chair of the General Meeting. The following Portfolios are included in the General Meeting and Council's nominated spokesperson for that portfolio as follows:

PORTFOLIO	SPOKESPERSON
1. Office of the CEO (including Internal Audit)	Cr Mark Edwards
2. Organisational Services (excluding Internal Audit and Emergency Management)	Mayor Karen Williams
3. City Planning and Assessment	Cr Julie Talty
4. Community & Cultural Services, Environment & Regulation	Cr Lance Hewlett
5. Infrastructure & Operations	Cr Paul Gleeson
6. Emergency Management	Cr Alan Beard

1 DECLARATION OF OPENING

On establishing there is a quorum, the Mayor will declare the meeting open.

Recognition of the Traditional Owners

Council acknowledges the Quandamooka people who are the traditional custodians of the land on which we meet. Council also pays respect to their elders, past and present, and extend that respect to other indigenous Australians who are present.

2 RECORD OF ATTENDANCE AND LEAVE OF ABSENCE

Motion is required to approve leave of absence for any Councillor absent from today's meeting.

3 DEVOTIONAL SEGMENT

Member of the Ministers' Fellowship will lead Council in a brief devotional segment.

4 RECOGNITION OF ACHIEVEMENT

Mayor to present any recognition of achievement items.

5 RECEIPT AND CONFIRMATION OF MINUTES

5.1 GENERAL MEETING MINUTES 7 OCTOBER 2015

Motion is required to confirm the Minutes of the General Meeting of Council held on 7 October 2015.

6 MATTERS OUTSTANDING FROM PREVIOUS COUNCIL MEETING MINUTES

6.1 MAKING OF LOCAL LAWS – KOALA AREA MAPPING

At the General Meeting of 7 October 2015, Council resolved that this item 'lie on the table'.

This item will be presented to a future General Meeting for consideration.

7 PUBLIC PARTICIPATION

In accordance with s.31 of POL-3127 Council Meeting Standing Orders:

1. In each meeting (other than special meetings), a period of 15 minutes may be made available by resolution to permit members of the public to address the local government on matters of public interest relating to the local government. This period may be extended by resolution.
2. Priority will be given to members of the public who make written application to the CEO no later than 4.30pm two days before the meeting. A request may also be made to the chairperson, when invited to do so, at the commencement of the public participation period of the meeting.
3. The time allocated to each speaker shall be a maximum of five minutes. The chairperson, at his/her discretion, has authority to withdraw the approval to address Council before the time period has elapsed.
4. The chairperson will consider each application on its merits and may consider any relevant matter in his/her decision to allow or disallow a person to address the local government, e.g.
 - a) Whether the matter is of public interest;
 - b) The number of people who wish to address the meeting about the same subject
 - c) The number of times that a person, or anyone else, has addressed the local government previously about the matter;
 - d) The person's behaviour at that or a previous meeting' and
 - e) If the person has made a written application to address the meeting.
5. Any person invited to address the meeting must:
 - a) State their name and suburb, or organisation they represent and the subject they wish to speak about;
 - b) Stand (unless unable to do so);
 - c) Act and speak with decorum;
 - d) Be respectful and courteous; and
 - e) Make no comments directed at any individual Council employee, Councillor or member of the public, ensuring that all comments relate to Council as a whole.

8 PETITIONS AND PRESENTATIONS

Councillors may present petitions or make presentations under this section.

9 MOTION TO ALTER THE ORDER OF BUSINESS

The order of business may be altered for a particular meeting where the Councillors at that meeting pass a motion to that effect. Any motion to alter the order of business may be moved without notice.

10 DECLARATION OF MATERIAL PERSONAL INTEREST OR CONFLICT OF INTEREST ON ANY ITEMS OF BUSINESS

Councillors are reminded of their responsibilities in relation to a Councillor's material personal interest and conflict of interest at a meeting (for full details see sections 172 and 173 of the *Local Government Act 2009*). In summary:

If a Councillor has a material personal interest in a matter before the meeting:

The Councillor must—

- *inform the meeting of the Councillor's material personal interest in the matter; and*
- *leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being discussed and voted on.*

The following information must be recorded in the minutes of the meeting, and on the local government's website—

- *the name of the Councillor who has the material personal interest, or possible material personal interest, in a matter;*
- *the nature of the material personal interest, or possible material personal interest, as described by the Councillor.*

A Councillor has a **material personal interest** in the matter if any of the following persons stands to gain a benefit, or suffer a loss, (either directly or indirectly) depending on the outcome of the consideration of the matter at the meeting—

- (a) the Councillor;
- (b) a spouse of the Councillor;
- (c) a parent, child or sibling of the Councillor;
- (d) a partner of the Councillor;
- (e) an employer (other than a government entity) of the Councillor;
- (f) an entity (other than a government entity) of which the Councillor is a member;
- (g) another person prescribed under a regulation.

If a Councillor has a conflict of interest (a real conflict of interest), or could reasonably be taken to have a conflict of interest (a perceived conflict of interest) in a matter before the meeting:

The Councillor must—

- *deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way.*
- *Inform the meeting of—*
 - (a) *the Councillor's personal interests in the matter; and*
 - (b) *if the Councillor participates in the meeting in relation to the matter, how the Councillor intends to deal with the real or perceived conflict of interest.*

The following must be recorded in the minutes of the meeting, and on the local government's website—

- (a) *the name of the Councillor who has the real or perceived conflict of interest;*
- (b) *the nature of the personal interest, as described by the Councillor;*
- (c) *how the Councillor dealt with the real or perceived conflict of interest;*
- (d) *if the Councillor voted on the matter—how the Councillor voted on the matter;*
- (e) *how the majority of persons who were entitled to vote at the meeting voted on the matter.*

A **conflict of interest** is a conflict between—

- (a) a Councillor's personal interests (including personal interests arising from the Councillor's relationships, for example); and
- (b) the public interest;

that might lead to a decision that is contrary to the public interest.

11 REPORTS TO COUNCIL

**11.1 PORTFOLIO 1 (CR MARK EDWARDS)
OFFICE OF CEO (INCLUDING INTERNAL AUDIT)**

11.1.1 SEPTEMBER 2015 END OF MONTH REPORTS

Report will be distributed when finalised.

11.2 PORTFOLIO 3 (CR JULIE TALTY)**CITY PLANNING AND ASSESSMENT****11.2.1 DECISIONS MADE UNDER DELEGATED AUTHORITY FOR CATEGORY 1, 2 & 3 DEVELOPMENT APPLICATIONS**

Objective Reference: A290523
Reports and Attachments (Archives)

Attachment: [Decisions Made Under Delegated Authority 20.09.2015 to 03.10.2015](#)

Authorising Officer:



Louise Rusan
General Manager Community & Customer Services

Responsible Officer:

David Jeanes
Group Manager City Planning & Assessment

Report Author:

Debra Weeks
Senior Business Support Officer

PURPOSE

The purpose of this report is for Council to note that the decisions listed below were made under delegated authority for Category 1, 2 and 3 development applications.

This information is provided for public interest.

BACKGROUND

At the General Meeting of 27 July, 2011, Council resolved that development assessments be classified into the following four Categories:

Category 1 – Minor Complying Code Assessments and Compliance Assessments and associated administrative matters, including correspondence associated with the routine management of all development applications;

Category 2 – Complying Code Assessments and Compliance Assessments and Minor Impact Assessments;

Category 3 – Moderately Complex Code & Impact Assessments; and

Category 4 – Major and Significant Assessments

The applications detailed in this report have been assessed under:-

- Category 1 criteria - defined as complying code and compliance assessable applications, including building works assessable against the planning scheme, and other applications of a minor nature, including all accelerated applications.

- Category 2 criteria - defined as complying code assessable and compliance assessable applications, including operational works, and Impact Assessable applications without submissions of objection. Also includes a number of process related delegations, including issuing planning certificates, approval of works on and off maintenance and the release of bonds, and all other delegations not otherwise listed.
- Category 3 criteria that are defined as applications of a moderately complex nature, generally mainstream impact assessable applications and code assessable applications of a higher level of complexity. Impact applications may involve submissions objecting to the proposal readily addressable by reasonable and relevant conditions. Both may have minor level aspects outside a stated policy position that are subject to discretionary provisions of the Planning Scheme. Applications seeking approval of a plan of survey are included in this category. Applications can be referred to General Meeting for a decision.

OFFICER'S RECOMMENDATION

That Council resolves to note this report.

Decisions Made Under Delegated Authority 20.09.2015 to 26.09.2015

Application	Description	Category	Applicant	Property Address	Application Type	Decision Date	Decision	Division
Category 1								
BWP003155	Design & Siting - Dwelling House	Category1	The Certifier Pty Ltd	1 Medina Court, Ormiston QLD 4160	Concurrence Agency Response	22/09/2015	Approved	1
BWP003153	Design & Siting - Dwelling House	Category1	Philip Murray Impey	84 Passage Street, Cleveland QLD 4163	Concurrence Agency Response	23/09/2015	Approved	2
BWP003102	Building Over Sewer Dwelling	Category1	Bonafide Building Approvals	25 Buenavista Avenue, Thornlands QLD 4164	Concurrence Agency Response	21/09/2015	Approved	3
BWP003152	Design & Siting - Carport	Category1	Earl Knudsen	3 Kianga Court, Victoria Point QLD 4165	Concurrence Agency Response	23/09/2015	Approved	4
BWP003171	Design & Siting - Dwelling House Extension	Category1	Building Code Approval Group Pty Ltd	10 Lyn Court, Victoria Point QLD 4165	Concurrence Agency Response	24/09/2015	Approved	4
MCU013568	Dwelling House - ADA	Category1	John Watson Garlick	5 Michael Street, Macleay Island QLD 4184	Code Assessment	23/09/2015	Development Permit	5
BWP003158	Dwelling	Category1	Professional Certification Group	4 President Terrace, Macleay Island QLD 4184	Concurrence Agency Response	24/09/2015	Approved	5
MCU013575	Dwelling House & Outbuilding - ADA	Category1	Robert Cyril Stampton	23 Barramundi Street, Macleay Island QLD 4184	Code Assessment	23/09/2015	Development Permit	5
BWP003157	Carport	Category1	Applied Building Approvals	138 Orchid Drive, Mount Cotton QLD 4165	Concurrence Agency Response	23/09/2015	Approved	6
BWP003159	Boundary Setback	Category1	Henley Properties Qld Pty Ltd	5 Europa Court, Redland Bay QLD 4165	Concurrence Agency Response	24/09/2015	Approved	6
BWP003160	Design and Siting	Category1	Dixon Homes Pty Ltd (Sherwood)	47 Bankswood Drive, Redland Bay QLD 4165	Concurrence Agency Response	24/09/2015	Approved	6

Decisions Made Under Delegated Authority 20.09.2015 to 26.09.2015

BWP003162	Design and Siting - Carport	Category1	All Approvals Pty Ltd	60 Wimborne Road, Alexandra Hills QLD 4161	Concurrence Agency Response	23/09/2015	Approved	7
BWP003168	Design & Siting - Dwelling house	Category1	The Certifier Pty Ltd	27 Cochrane Street, Alexandra Hills QLD 4161	Concurrence Agency Response	25/09/2015	Approved	7
ROL005977	1 into 2 Standard Format	Category1	George Phillip Bugeja Teresa Caruana	34 Bayford Street, Birkdale QLD 4159	Compliance Assessment	24/09/2015	Compliance Permit	8
MCU013566	Secondary Dwelling	Category1	We Build-Um	19 Firtree Street, Capalaba QLD 4157	Code Assessment	25/09/2015	Development Permit	9
BWP003133	Extension (Carport)	Category1	Bartley Burns Certifiers & Planners	91 Thomas Street, Birkdale QLD 4159	Code Assessment	25/09/2015	Development Permit	10
BWP003161	Design and Siting - Open Portico	Category1	Geoffrey James Worrall	12 Downwind Court, Birkdale QLD 4159	Concurrence Agency Response	21/09/2015	Approved	10
Category 2								
OPW001914	Operational Works - MCU - Multiple Dwellings x 6	Category2	DEQ Consulting Engineers	6 Fernbourne Road, Wellington Point QLD 4160	Compliance Assessment	25/09/2015	Compliance Certificate	1
OPW001911	Operational Works - Prescribed Tidal Works - Pontoon (Smart EDA)	Category2	Aqua Pontoons Pty Ltd	48 Sentinel Court, Cleveland QLD 4163	Code Assessment	25/09/2015	Development Permit	2

Decisions Made Under Delegated Authority 20.09.2015 to 26.09.2015

MCU013400	Tourist Park	Category2	Alexandra Buchanan Architecture	149-169 Mount View Road, Mount Cotton QLD 4165	Impact Assessment	21/09/2015	Development Permit	6
OPW001917	Operational Works - Domestic Driveway Crossover	Category2	Brendan Gill Michelle Lisa Gill	106 Bunker Road, Victoria Point QLD 4165	Code Assessment	22/09/2015	Development Permit	6
Category 3								
ROL005893	Combined Standard Format Subdivision 1 into 2 with Multiple Dwellings x 25	Category3	A-List Property Specialists Pty Ltd As Trustee	12-16 Beveridge Road, Thornlands QLD 4164	Impact Assessment	22/09/2015	Development Permit	4

Decisions Made Under Delegated Authority 27.09.2015 to 03.10.2015


Application	Description	Category	Applicant	Property Address	Application Type	Decision Date	Decision	Division
Category 1								
BWP003167	Design and Siting - Boundary Setback	Category1	Cornerstone Building Certification	19A Douro Road, Wellington Point QLD 4160	Concurrence Agency Response	28/09/2015	Approved	1
BWP003154	Private Swimming Pool	Category1	Nicholas David Johnston	4 Piermont Place, Cleveland QLD 4163	Code Assessment	1/10/2015	Development Permit	2
BWP003163	Design and Siting - carport	Category1	All Approvals Pty Ltd	32 Monterey Avenue, Thornlands QLD 4164	Concurrence Agency Response	28/09/2015	Approved	3
BWP003164	Design & Siting - Patio	Category1	Bartley Burns Certifiers & Planners	4A Kim Jon Court, Thornlands QLD 4164	Concurrence Agency Response	29/09/2015	Approved	4
BWP003165	Design and Siting - Open Carport	Category1	Residential Building Approvals	42 Prescoter Drive, Victoria Point QLD 4165	Concurrence Agency Response	29/09/2015	Approved	4
ROL005922	Standard Format : 1 into 4 Lots	Category1	East Coast Surveys Pty Ltd	89 Main Street, Redland Bay QLD 4165	Impact Assessment	2/10/2015	Development Permit	5
BWP003136	Domestic Outbuilding- Shed	Category1	The Certifier Pty Ltd	1-19 Hillcrest Road, Sheldon QLD 4157	Code Assessment	30/09/2015	Development Permit	6
BWP003149	Retaining Wall	Category1	Ashlee Tiarne Camm Mitchell Scott Cureton	96 Balthazar Circuit, Mount Cotton QLD 4165	Code Assessment	30/09/2015	Development Permit	6
BWP003170	Design & Siting	Category1	Henley Properties Qld Pty Ltd	2 Europa Court, Redland Bay QLD 4165	Concurrence Agency Response	30/09/2015	Approved	6
BWP003172	Design & Siting - Dwelling House	Category1	Antech Constructions Pty Ltd	1 Madison Court, Redland Bay QLD 4165	Concurrence Agency Response	1/10/2015	Approved	6
BWP003179	Design and Siting - Dwelling House	Category1	Antech Constructions Pty Ltd	1 Madison Court, Redland Bay QLD 4165	Concurrence Agency Response	29/09/2015	Approved	6
BWP003145	Domestic Outbuilding	Category1	Mark Andrew Wyatt	6 Timbertop Court, Capalaba QLD 4157	Code Assessment	28/09/2015	Development Permit	7

Decisions Made Under Delegated Authority 27.09.2015 to 03.10.2015

BWP003063	Combined Design & Siting and Build over or Near Infrastructure - Shed	Category1	Zinaida Chinkar	11 Moku Crescent, Birkdale QLD 4159	Concurrence Agency Response	28/09/2015	Approved	10
Category 2								
OPW001910	Operational Works - (Civil ONLY) MCU - Multiple Dwelling x 9	Category2	Projects And Designs Pty Ltd	580 Main Road, Wellington Point QLD 4160	Compliance Assessment	28/09/2015	Compliance Certificate	1
MCU013389	Multiple Dwellings x 12	Category2	Yajoc Pty Ltd T/As Eltham Projects	48-50 Little Shore Street, Cleveland QLD 4163	Negotiated Decision	29/09/2015	Development Permit	2
MCU013536	New Emergency Services Building	Category2	Bay Island Designs	10-16 Lucas Drive, Lamb Island QLD 4184	Code Assessment	30/09/2015	Development Permit	5

11.2.2 APPEALS REPORT CURRENT AS AT 7 OCTOBER 2015

Objective Reference: **A290483**
 Reports and Attachments (Archives)

Authorising Officer: 
 Louise Rusan
 General Manager Community & Customer
 Services

Responsible Officer: **David Jeanes**
 Group Manager City Planning & Assessment

Report Author: **Chris Vize**
 Service Manager Planning Assessment

PURPOSE

The purpose of this report is for Council to note the current appeals.

BACKGROUND

Information on appeals may be found as follows:

1. Planning and Environment Court

- a) Information on current appeals and declarations with the Planning and Environment Court involving Redland City Council can be found at the District Court web site using the "Search civil files (eCourts) Party Search" service: <http://www.courts.qld.gov.au/esearching/party.asp>
- b) Judgements of the Planning and Environment Court can be viewed via the Supreme Court of Queensland Library web site under the Planning and Environment Court link: <http://www.sclqld.org.au/qjudgment/>

2. Department of Infrastructure, Local Government and Planning (DILGP)

The DILGP provides a Database of Appeals (<http://www.dlg.qld.gov.au/resources/tools/planning-and-environment-court-appeals-database.html>) that may be searched for past appeals and declarations heard by the Planning and Environment Court.

The database contains:

- A consolidated list of all appeals and declarations lodged in the Planning and Environment Courts across Queensland of which the Chief Executive has been notified.
- Information about the appeal or declaration, including the appeal number, name and year, the site address and local government.

ISSUES

1.	File Number:	Appeal 2675 of 2009 - (MC010624)
Applicant:		L M Wigan
Application Details:		Material Change of Use for residential development (Res A & Res B) and preliminary approval for operational works. 84-122 Taylor Road, Thornlands.
Appeal Details:		Applicant appeal against refusal.
Current Status:		The appellant has submitted further amended plans for the consideration of the parties. The matter is listed for review on 4 November 2015.

2.	File Number:	Appeal 4802 of 2014 - (OPW001288)
Applicant:		Birkdale Flowers Pty Ltd
Application Details:		Operational Works subsequent to reconfiguring a lot (1 into 28 lots).
Appeal Details:		Amended Originating Application seeking enforcement orders for removal of encroachments upon adjoining land and compliance with relevant approvals.
Current Status:		Matter progressing, set down for 6 day hearing in November 2015.

3.	File Number:	Appeals 178, 179, 180 & 181 of 2015 - (ROL005722 – ROL005725 inclusive)
Applicant:		Villa World Development Pty Ltd
Application Details:		Reconfiguring a Lot - 1 into 37 lots (Stage 4), 1 into 32 lots (Stage 5), 1 into 32 lots (Stage 6) and 1 into 33 lots (Stage 7).
Appeal Details:		Applicant appeals against refusal of request for Negotiated Infrastructure Charges Notices.
Current Status:		A directions Order was issued by the Court on 2 September. Parties are to attend a without prejudice meeting before 23 October 2015. The matter is listed for a two day hearing in December 2015.

4.	File Number:	Appeal 795 of 2015 - (MCU013316)
Applicant:		James Tovey Wilson
Application Details:		Material Change of Use for Mixed Use – Tourist Accommodation (71 units), Apartment Building (28 units), Refreshment Establishment and Shop 18-20 Waterloo Street Cleveland
Appeal Details:		Submitter appeal against development approval.
Current Status:		Orders were made on 19 August 2015 requiring the developer to undertake public notification again and for Council to write to missed submitters. The matter is next to be reviewed on 8 October 2015.

5.	File Number:	Appeals 1610 of 2015 - (MCU011532)
Applicant:		Skyhope Developments
Application Details:		Material Change of Use for Apartment Building (271 Units) 54-58 Mount Cotton Road, Capalaba
Appeal Details:		Applicant appeal against Infrastructure Charges Notice.
Current Status:		Experts were meeting during August and preparing a joint report. Mediation taking place in September and Court review on 23 September 2015.

6.	File Number:	Appeals 3118 of 2015 - (ROL005923)
Applicant:		W Stone
Application Details:		Reconfiguring a Lot (1 into 2) 35-37 Clive Road, Birkdale
Appeal Details:		Applicant appeal against refusal.
Current Status:		On 26 August 2015 received directions Order from the Court. The matter is listed for a two day hearing in November 2015.

7.	File Number:	Appeal 3441 of 2015 - (MCU013378)
Applicant:		Urban Potentials Pty Ltd
Application Details:		Material Change of Use for a Service Station 4 – 6 Government Rd, Redland Bay
Appeal Details:		Applicant appeal against refusal.
Current Status:		Appeal filed in Court on 2 September 2015. No directions orders have been made by the Court.

8.	File Number:	Appeal 3474 of 2015 - (ROL005815)
Applicant:		Palacio Property Group Pty Ltd
Application Details:		Reconfiguring a Lot (1 into 5 Lots) 188 – 200 Waterloo Street, Cleveland
Appeal Details:		Applicant appeal against refusal of conversion application.
Current Status:		Appeal filed in Court on 4 September 2015. No directions orders have been made by the Court.

9.	File Number:	Appeal 3641 of 2015 - (MCU012812)
Applicant:		King of Gifts Pty Ltd and HTC Consulting Pty Ltd
Application Details:		Material Change of Use for Combined Service Station (including car wash) and Drive Through Restaurant 604-612 Redland Bay, Road, Alexandra Hills
Appeal Details:		Applicant appeal against refusal.
Current Status:		Appeal filed in Court on 16 September 2015.
10.	File Number:	Appeal 3703 of 2015 - (MCU013447)
Applicant:		Hometown Villas

Application Details:	Material Change of Use for 16 Multiple Dwelling Units 41 – 45 Benfer Rd, Victoria Point
Appeal Details:	Applicant appeal against refusal.
Current Status:	Appeal filed in Court on 18 September 2015.

OFFICER'S RECOMMENDATION

That Council resolves to note this report.

11.2.3 ROL005924 – 70-92 MULLER STREET, REDLAND BAY – AMEND SITE CLASSIFICATION

Objective Reference: A278306
Reports and Attachments (Archives)

Attachment: [ROL005924 Koala SPRP Mapping, Zoning and Bushland Habitat Overlay Maps](#)

Authorising Officer:



David Jeanes
Acting General Manager Community and
Customer Services

Responsible Officer:

Chris Vize
Acting Group Manager City Planning and
Assessment

Report Author:

Brendan Mitchell
Planning Officer

PURPOSE

This request, relating to a Reconfiguring a Lot application, is referred to Council for determination. The request is to amend the site's classification under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions (Koala SPRP).

The applicant has provided an ecological report recommending that the site's south eastern corner classification is more akin to Medium Value Rehabilitation as opposed to the current High Value Bushland classification for that part of the site. The request has been assessed by Council's technical officers and the change is supported.

Hence, it is recommended that Council resolve to assess the current reconfiguration application under the Medium Value Rehabilitation SPRP classification.

BACKGROUND

An application to subdivide the subject site into 64 lots was submitted to Council on 8 May 2015. Council issued an Information Request on 10 June 2015 asking the applicant to address the Koala SPRP. Specifically, the applicant was to address the proposed removal of non-juvenile koala habitat trees, which conflicts with the provisions under Table 6 – Column 2 of the SPRP which states that "site design does not result in the clearing of non-juvenile koala habitat trees in areas of bushland habitat".

To address this, the applicant has submitted an ecological assessment prepared by Gondwana Ecology Group which recommends the SPRP classification be changed from High Value Bushland Habitat to Medium Value Rehabilitation, which is more aligned with the site's characteristics and adjoining classifications. Under Division 9 of the Koala SPRP the applicant must provide sufficient information to Council and the assessment manager may determine as part of a development application whether a different koala habitat type is applicable.

ISSUES

Development Proposal & Site Description

Proposal

The proposal is to change the site's south eastern corner Koala SPRP classification from High Value Bushland Habitat to Medium Value Rehabilitation.

Site & Locality

The subject site (Lot 5 RP 206175, 70-92 Muller Street Redland Bay) comprises 78,130m² of land zoned Urban Residential and Open Space.

The site is currently essentially vacant with a dam to the south of the site and a waterway continuing to the north.

In terms of vegetation, the site can be divided into two main areas separated by the waterway. The area to the northwest can be described as regrowth that comprises paperbarks, eucalypts and she-oaks which are less than 10 years old. To the southeast the vegetation is more sparse with approximately 10 trees at varying stages of maturity dotted across this area. The vegetation is no more than 15 years old.

This area is the part of the site identified as having the High Value Bushland classification. It should be noted that the site was essentially cleared of vegetation at least 17 years ago as is evidenced by the aerial in Attachments 1 & 2 (1998 mapping).

The site adjoins Cleveland-Redland Bay Road to the south, the Muller Street road reserve to the north and residentially zoned land to the east and west. The site to the east is currently under construction to create residential lots. To the west is an established Low Density Residential estate.

Application Assessment

South East Queensland Koala Conservation State Planning Regulatory Provisions

The site is designated as High Value Rehabilitation in the north-east, Medium Value Rehabilitation in the centre, with a small patch of High Value Bushland in the south-east (see Attachment 3).

The applicant has requested an assessment under Division 9 of the SPRP to determine whether the part of the site designated High Value Bushland should be re-designated as a different category, and has submitted an ecologist's report in support of this.

The SPRP defines the designations as follows:

Rehabilitation habitat is an area that is:

- a. mapped as rehabilitation habitat on the Map of Assessable Development Area Koala Habitat Values; or
- b. an area of habitat other than intact, contiguous native vegetation on a lot equal to or larger than 0.5 hectares in size that:

- i. has a land cover composition comprising of a mix of forest, scattered trees, grass and bare surfaces; and
- ii. provides koala populations with food and shelter trees while allowing for day-to-day movement, dispersal and genetic exchange.

The SPRP and the Guideline do not clarify the distinction between High Value and Medium Value Rehabilitation.

Bushland habitat means:

- a. an area that is mapped as bushland habitat on the Map of Assessable Development Area Koala Habitat Values; or
- b. an area:
 - i. that is either:
 1. greater than two hectares in size; or
 2. less than two hectares in size but is within 50 metres of surrounding bushland habitat; and
 - ii. that is characterised by intact contiguous native vegetation and may include remnant and non-remnant or regrowth vegetation; and
 - iii. that has a landcover composition of predominantly forest ranging from closed canopy to open woodland; and
 - iv. that contains an assortment of eucalypt species used by koalas for food, shelter, movement and dispersal; and
 - v. that is not a plantation forest.

The applicant's ecological report notes that the section of the site designated High Value Bushland cannot be described as closed forest or open woodland as it consists of isolated clumps of recent re-growth with fewer than 10 trees that could be defined as "borderline" koala habitat trees due to their small size at this time. This interpretation is supported as aerial photography demonstrates that all regrowth has occurred in the last 10 to 12 years.

An inspection of the site can confirm that at least half the regrowth consists of non-habitat species and could not be described as "predominantly forest or open woodland" (see Attachments 1 & 2). It therefore does not meet the SPRP definition of Bushland Habitat and a Rehabilitation designation is more consistent with the definition.

The applicant's report argues that this part of the site should not be designated Rehabilitation Habitat either (though did not explicitly state that it was 'generally not suitable'), based on an observation that there is no recent evidence of koalas on the site or its surrounds, and that the site is generally isolated by Redland Bay Road to the south.

This interpretation is not supported. The south east corner does consist of a mix of forest (although currently at a very juvenile stage), scattered trees and grass. It does contain food and shelter trees (again, still at a juvenile stage) and does allow for koala movement and genetic exchange. This description broadly meets the SPRP definition of Rehabilitation Habitat.

The SPRP definition does not require the presence of koalas currently. In any event, koalas are known to be currently present in the immediate surrounding area. There is no reason to assume that they do not move through the subject site, as the mix of

habitat trees (although recent regrowth) and grassland is typical of koala habitat that is occupied intermittently.

The north-western and central parts of the site contain denser recent regrowth that has occurred in the last 10 to 12 years. The ecology report argues that this area likewise is not Rehabilitation Habitat for the same reasons noted above. Again, this interpretation is not supported.

There is a mix of koala habitat and non-habitat species in the regrowth, which provides food, shelter, and allowance for koala movement. In time, if left alone, this may become closed forest and open woodland and eventually be classifiable as Bushland Habitat.

The process would take many decades and the likelihood of it happening in this exact location is too difficult to predict, as it is dependent on a number of unknown factors - environmental, town planning, demographic and economic.

Under the Division 9 request and for the purposes of this request, it is reasonable to re-classify the south-eastern corner as Medium Value Rehabilitation to match the adjacent band of Medium Value Rehabilitation, which it would be likely to merge with in time.

It should be noted that if the reclassification is supported a Rehabilitation habitat classification would mean that, if this vegetation is required to be removed as part of site works, then offsets in the form of monetary contributions or replanting will be required under the SPRP.

Redlands Planning Scheme

The Planning Scheme is not relevant to the assessment of the current request. The area of the site which is the subject of this request is not affected by relevant overlays other than the Bushland Habitat overlay under the Redlands Planning Scheme with regards to environmental matters.

The Bushland Habitat overlay will be taken into account as part of the assessment of the application.

State Referral Agencies

The change of classification request does not trigger any referrals.

Public Consultation

The current request does not require public notification.

STRATEGIC IMPLICATIONS

Legislative Requirements

The request has been assessed in accordance with the Koala SPRP.

Risk Management

There are no direct appeal rights to the Planning and Environment Court against a decision to approve or refuse a request under Division 9 of the Koala SPRP.

However, the applicant or a third party may seek a declaration from the Court that Council should have made a particular decision.

Financial

If the request is refused, there is potential that an appeal will be lodged and subsequent legal costs may apply.

People

Not applicable. There are no implications for staff.

Environmental

Environmental implications are detailed within the assessment in the “issues” section of this report.

Social

Not applicable.

Alignment with Council's Policy and Plans

Not relevant to this request under the State Government’s State Planning Regulatory Provision.

CONSULTATION

The assessment manager has consulted with other internal assessment teams, in particular the environmental assessment team. Advice has been received from relevant officers and forms part of the assessment of the application.

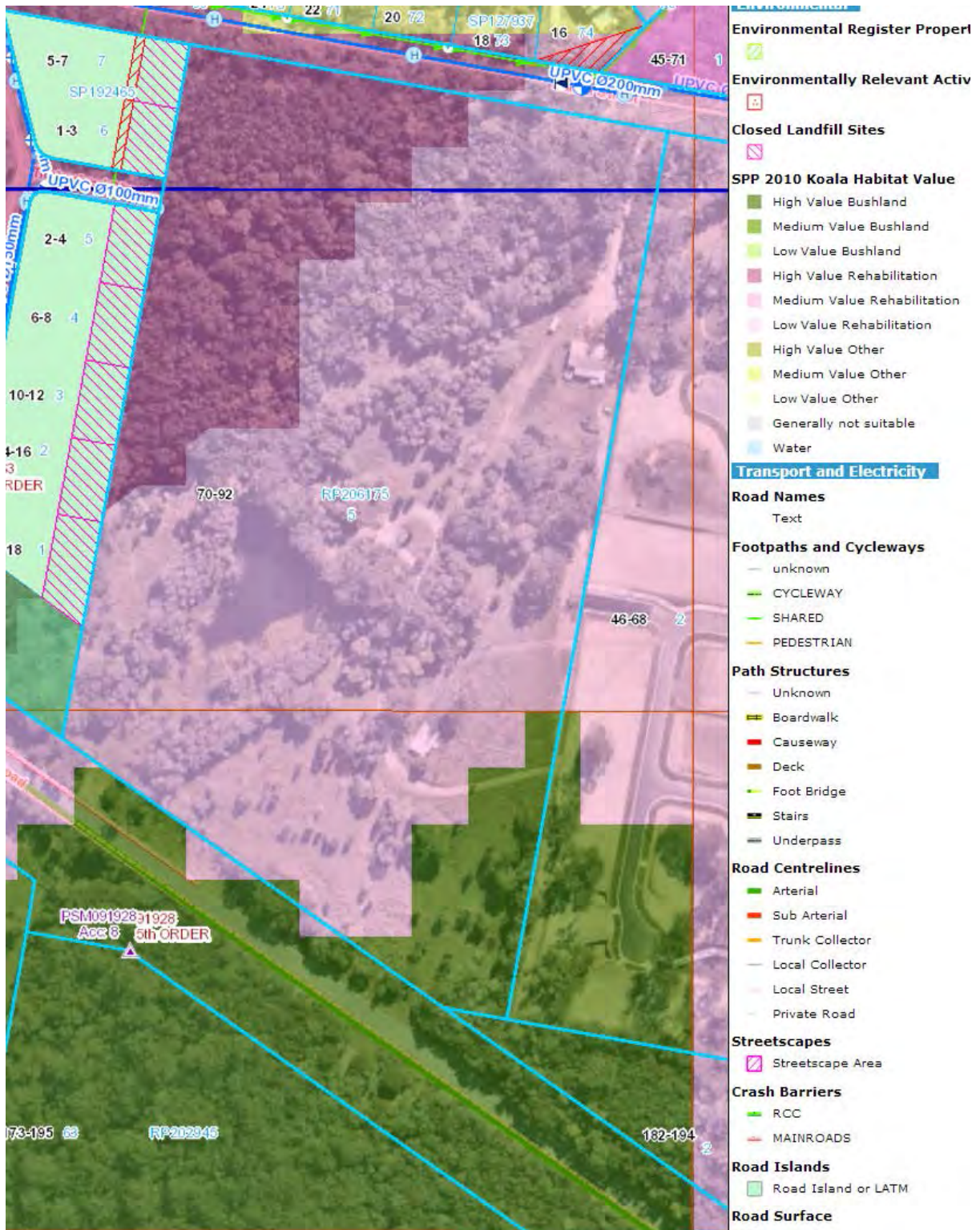
OPTIONS

1. That Council resolves, in accordance with division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provision, that the koala habitat type for part of the land designated High Value Bushland is changed to Medium Value Rehabilitation for the purpose of applying divisions 4 to 7 of these State Planning Regulatory Provisions.
2. That Council resolves to refuse the request under division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provision and maintain that part of the land as High Value Bushland.

OFFICER’S RECOMMENDATION

That Council resolves, in accordance with division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provision, that the koala habitat type for part of the land designated High Value Bushland is changed to Medium Value Rehabilitation for the purpose of applying divisions 4 to 7 of these State Planning Regulatory Provisions.

Attachment – Koala SPRP Mapping



- Environmental Register Property**
- Environmentally Relevant Activity**
- Closed Landfill Sites**
- SPP 2010 Koala Habitat Value**
 - High Value Bushland
 - Medium Value Bushland
 - Low Value Bushland
 - High Value Rehabilitation
 - Medium Value Rehabilitation
 - Low Value Rehabilitation
 - High Value Other
 - Medium Value Other
 - Low Value Other
 - Generally not suitable
 - Water
- Transport and Electricity**
- Road Names**
 - Text
- Footpaths and Cycleways**
 - unknown
 - CYCLEWAY
 - SHARED
 - PEDESTRIAN
- Path Structures**
 - Unknown
 - Boardwalk
 - Causeway
 - Deck
 - Foot Bridge
 - Stairs
 - Underpass
- Road Centrelines**
 - Arterial
 - Sub Arterial
 - Trunk Collector
 - Local Collector
 - Local Street
 - Private Road
- Streetscapes**
 - Streetscape Area
- Crash Barriers**
 - RCC
 - MAINROADS
- Road Islands**
 - Road Island or LATM
- Road Surface**





**11.2.4 ROL005930 - 29 STURGEON STREET, ORMISTON - 1 INTO 2
SUBDIVISION**

Objective Reference: A276994
Reports and Attachments (Archives)

Attachment: [ROL005930 – Locality, Aerial and Site Plans](#)

Authorising Officer:



David Jeanes
Acting General Manager Community and
Customer Services

Responsible Officer:

Chris Vize
Acting Group Manager City Planning and
Assessment

Report Author:

Frances Eastall
Planner

PURPOSE

This application is referred to the Council for determination.

The development application involves Reconfiguring a Lot for the purpose of a one (1) into two (2) lot subdivision.

The application has been assessed against the relevant planning instruments and the proposed development is considered to conflict with the planning scheme, as detailed in the assessment under the issues heading of this report.

The key issue identified in the assessment relates to the frontage width of the proposed lots, which is inconsistent with the scheme provisions. It is therefore recommended that the application be refused for the reasons identified in the Officer's Recommendation.

BACKGROUND

There are no previous approvals relevant to this proposal.

ISSUES**Development Proposal & Site Description****Proposal**

The application is for a one (1) into two (2) lot reconfiguration that will result in the creation of:

- Proposed Lot 1 with an area of 415m² and approximately 9m frontage to Sturgeon Street; and
 - Proposed Lot 2 with an area of 415m² and approximately 9m frontage to Sturgeon Street.
-

The applicant has indicated that all structures are to be removed except for the swimming pool, which the applicant has requested Council to condition a bond.

Site & Locality

The site has an area of 830m² and is currently improved by a single dwelling, a shed and a private swimming pool. The site contains some vegetation which is also proposed to be removed and the land slopes from approximately 17.5m AHD at the eastern boundary to approximately 17m AHD at the western boundary.

The site is located on the northern side of Sturgeon Street, Ormiston and adjoins Urban Residential zoned properties to the north, east and west and adjacent to the south. A Local Centre zone is located within 100m of the site and Ormiston Railway Station and a park are located within 250m of the site. The surrounding neighbourhood is an established residential area with a mixed density ranging from single and two (2) storey dwelling houses to multiple dwellings.

Application Assessment

Sustainable Planning Act 2009

The application has been made in accordance with the *Sustainable Planning Act 2009* Chapter 6 – Integrated Development Assessment System (IDAS) and constitutes an application for Reconfiguring a Lot under the Redlands Planning Scheme.

SEQ Regional Plan 2009-2031

The site is located within the Urban Footprint in the SEQ Regional Plan 2009-2031. The proposal is consistent with the intent of this designation.

State Planning Policies & Regulatory Provisions

State Planning Policy / Regulatory Provision	Applicability to Application
SEQ Koala Conservation SPRP	The site is within a Priority Koala Assessable Development Area under the SEQ Koala Conservation SPRP. The Applicant has supplied relevant supporting information to identify that there are no koala habitat trees located on, or adjacent to, the development site. In this instance there are no requirements under the SPRP.
SPRP (Adopted Charges)	The development is subject to infrastructure charges in accordance with the SPRP (adopted charges) and Council's adopted resolution. Details of the charges applicable have been provided under the Infrastructure Charges heading of this report.
State Planning Policy July 2014	There are no issues requiring assessment against the SPP.

Redlands Planning Scheme

The application has been assessed under the Redlands Planning Scheme (RPS) version 7.

The application is subject to impact assessment (and is listed as inconsistent other development in the Urban Residential Zone Code). In this regard, the application is subject to assessment against the entire planning scheme, including the desired environmental outcomes as these are relevant to the purpose of the scheme. It is recognised that the following codes are particularly relevant to the application:

- Urban Residential Zone;
- Reconfiguration Code;
- Excavation and Fill Code;
- Infrastructure Works Code;
- Stormwater Management Code;
- Dwelling House Code; and
- Acid Sulfate Soils Overlay.

The development has been assessed against the applicable codes and is considered to conflict with the scheme intent as discussed further in this report.

Lot Size and Character

The applicant is proposing two 415m² lots with 9m frontages. The applicant provided an indicative plan to demonstrate that a dwelling house could be achieved on each lot to comply with the Queensland Development Code setbacks. However, the proposed lot frontages are considered to be out of character with the area in that there are very few existing small lots and therefore does not comply with Specific Outcome S1.1 of the Urban Residential Zone Code and Specific Outcome S3 of the Reconfiguration Code.

Inconsistent Development

The subject site is zoned Urban Residential. Specific Outcome S1.1 of the Urban Residential (UR) Zone Code states that inconsistent development is not to be established in the zone. Creating small lots with a frontage less than 10 metres is identified as inconsistent development in the zone. To establish whether there is a conflict with the Planning Scheme, an assessment has been undertaken against the overall outcomes of the relevant codes.

The overall outcomes of the Urban Residential Zone Code detail the type of development sought within the zone which is identified by the five key characteristics being uses and other development, built form and density, amenity, environment and infrastructure. The most relevant points are discussed below.

The following overall outcomes describe the type of uses and other development expected in the zone.

- Overall Outcome 2(a)(i) of the UR Zone Code states (emphasis added):
 - “(i) Provide for a range of residential uses that –*
 - a. are predominantly low-rise detached houses on individual lots of various sizes;*
 - b. maximise the supply of residential land through infill development;*
 - c. provide for housing choice and affordability.”*
- Overall Outcomes (2)(c) and (d) of the Reconfiguration Code states (emphasis added):

- “(c) reconfiguration results in safe, convenient and attractive neighbourhoods and places of economic activity, which meet the diverse and changing needs of the community; and*
- (d) reconfiguration facilitates the creation of lots, which satisfy population growth and economic need, while ensuring that lot size and mix is suited to -*
- ...
- (ii) expected end uses, associated activities and building forms.”*

While the proposal can achieve the overall outcomes of the UR Zone Code above as it creates individual freehold lots which meet the minimum lot size, there still remains the question of whether the development is consistent with the zone intent in terms of built form for the expected end uses.

The following outcomes describe the built form and density expected in the zone.

- Overall Outcome 2(b) of the UR Zone Code states (emphasis added):
 - “(ii) The density of uses and other development –*
 - a. utilise land efficiently through provision of a range of lot sizes and infill development that respects existing streetscapes in established areas.”*
- Overall outcome 2(c) of the UR Zone Code seeks that (emphasis added):
 - “Uses and other development achieves a high standard of amenity”.*
- Overall Outcome (2)(d) of the Reconfiguration Codes states that the lot (emphasis added):
 - (d) reconfiguration facilitates the creation of lots, which satisfy population growth and economic need, while ensuring that lot size and mix is suited to -*
 - (i) the local landscape setting;*
- Overall Outcome (2)(e) of the Reconfiguration Codes states that the lot (emphasis added):
 - (ii) has an area and dimension consistent with -*
 - a. the outcomes sought for the zone in which it occurs or any use approved for the subject land;*
 - b. any significant physical constraints of the land including environmental values, landscape setting or natural hazards;*
 - c. the provision of any setbacks for the use in that zone, if applicable.”*
- Overall outcome 2(g) of the Reconfiguration code seeks that (emphasis added):
 - (g) Infill reconfiguration respects established lot sizes, frontage widths and streetscapes.”*

The proposal will create individual lots that achieve a density of not greater than 1 dwelling unit per 400m² that are capable of containing dwelling houses.

However, the resulting lot sizes and future dwellings on those lots will not be of a width, depth and bulk that respects the existing streetscape and landscape setting in the surrounding area. Sturgeon Street has a streetscape character of relatively low density allotments with substantial vegetation and does not comprise any narrow allotments. It is recognised that the planning scheme places high importance on the frontage width of created allotments by identifying lots less than 10m wide as impact

assessable and inconsistent with the UR Zone. Whereas lot size, by comparison, is not used to change the level of assessment or consistency of development in this zone.

While there are no real physical constraints, the proposal will result in lot sizes that will conflict with the existing setbacks in the area. In addition, the future dwelling houses will have a different character to the existing and intended houses in this area. As the lots are less than 450m² in size, future dwellings will be assessed against the Queensland Development Code (QDC), which allows reduced setbacks for lots with a width less than 10.5m. This, coupled with the reduced frontage, will result in a cramped streetscape that will be out of character with the prevailing streetscape in this locality.

Grounds to justify the conflict

After establishing that a conflict exists, Council then needs to consider whether there are grounds to justify approving the development, despite the conflict.

The definition “grounds” is identified in the SPA as:

1. “means matters of public interest.”
2. “does not include the personal circumstances of an applicant, owner or interested party.”

Statutory guideline 05/09 outlines a list of matters that may be considered when determining whether there are sufficient grounds to justify a decision that conflicts with a relevant instrument.

- *“Relevant instrument is out of date”*
This ground is not applicable to this proposal.
- *“Relevant instrument is incorrect”*
This ground is not applicable to this proposal.
- *“Relevant instrument inadequately addresses development”*
Provisions for reconfiguring a lot are adequately catered for in the current planning scheme. The clear policy position of the planning scheme is that lots should not be less than 10m frontage.
- *“Relevant instrument does not anticipate specific or particular Development”*
The planning scheme does anticipate small lots and associated dwelling houses, and sets criteria for their location and design.
- *“Urgent need for the proposal”*
There is no urgent need to allow this type of development in the area. There are sufficient areas within the UR zone to cater for smaller lots. The draft City Plan identifies areas that may contain smaller lots, with lot sizes down to 250m² and frontages down to 7.5m. The subject site and its locality is not identified as one of these areas.

Infrastructure Charges

The proposed development is subject to infrastructure charges in accordance with the State Planning Regulatory Provisions (adopted charges). However, because the recommendation is for a refusal and not a Development Permit, there are no charges

applicable. Should Council decide to approve the application the standard adopted charge would apply.

State Referrals

The application did not trigger any referral requirements.

Public Consultation

The proposed development is Impact assessable and required public notification. The application was publicly notified for a minimum 15 business days from 04/06/2015 to 26/06/2015. A notice of compliance for public notification was received on 29/06/2015.

Submissions

There was one (1) properly made submission received during the notification period. One further submission was received which was not properly made. The matters raised within these submissions are outlined below:

1.	Issue Noise impacts from future dwelling houses
	Officer's Comment Noise is not considered to be of concern as the proposal will result in two (2) residential dwellings. Any noise created by occupants is regulated under the Environmental Protection Act.
2.	Issue Drainage pooling in the south western corner of submitters property (Lot 1 on RP864387).
	Officer's Comment The subject lot has a slope from the rear north eastern corner across the lot toward the western boundary. All structures are proposed to be removed, including a shed located in the north western corner (pool within the front boundary to remain), which may assist in alleviating any drainage problem. Nonetheless, drainage from the subject lot, if approved, will be conditioned to the Sturgeon Street frontage.
3.	Issue Splitting the block will have a significant effect on the value of surrounding blocks. Como Street is very sought after real estate and located within an "upper-middle class affluent area".
	Officer's Comment The value of a property is not a matter to be considered in the planning assessment process and is not considered to be a valid ground of objection.
4.	Issue Stormwater runoff from this area runs directly to the bay's foreshore mangroves, or the wetlands at Hilliards Creek. An increase in housing density will result in

	<p>an increase in pollutants running into the bay, causing damage to the marine life and vegetation.</p>
	<p>Officer's Comment</p> <p>The subject lot has a slope from east to west and continues to slope to the west along Sturgeon Street and therefore stormwater will not drain directly into the bay. If the application is approved, stormwater runoff will be able to comply with the Stormwater Management Code of the RPS.</p>
5.	<p>Issue</p> <p>The submitter stated that they accept that the area is zoned 'Urban Residential' but find it hard to accept that the Council is approving a change to the zoning.</p>
	<p>Officer's Comment</p> <p>The site is zoned Urban Residential. There is no change to the zoning proposed.</p>

STRATEGIC IMPLICATIONS

Legislative Requirements

In accordance with the *Sustainable Planning Act 2009* this development application has been assessed against the Redlands Planning Scheme V7 and other relevant planning instruments.

Risk Management

Standard development application risks apply. In accordance with the *Sustainable Planning Act 2009* the applicant may appeal to the Planning and Environment Court against a condition of approval or against a decision to refuse. A submitter may also appeal against the decision of Council.

Financial

If approved, Council will collect infrastructure contributions in accordance with the State Planning Regulatory Provisions (adopted charges) and Council's Adopted Infrastructure Charges Resolution.

There is potential that an appeal will be lodged and subsequent legal costs may apply. This risk exists whether a refusal or an approval is granted.

People

Not applicable. There are no implications for staff.

Environmental

Environmental implications are detailed within the assessment in the "issues" section of this report.

Social

Social implications are detailed within the assessment in the "issues" section of this report.

Alignment with Council's Policy and Plans

The assessment and officer's recommendation align with Council's policies and plans as described within the "issues" section of this report.

CONSULTATION

The assessment manager has consulted with other internal assessment teams where appropriate. Advice has been received from relevant officers and forms part of the assessment of the application.

OPTIONS

The development application has been assessed against the Redlands Planning Scheme and relevant State planning instruments. The development is considered to conflict with the relevant planning instruments and it is therefore recommended that the application be refused.

Council's options are to either:

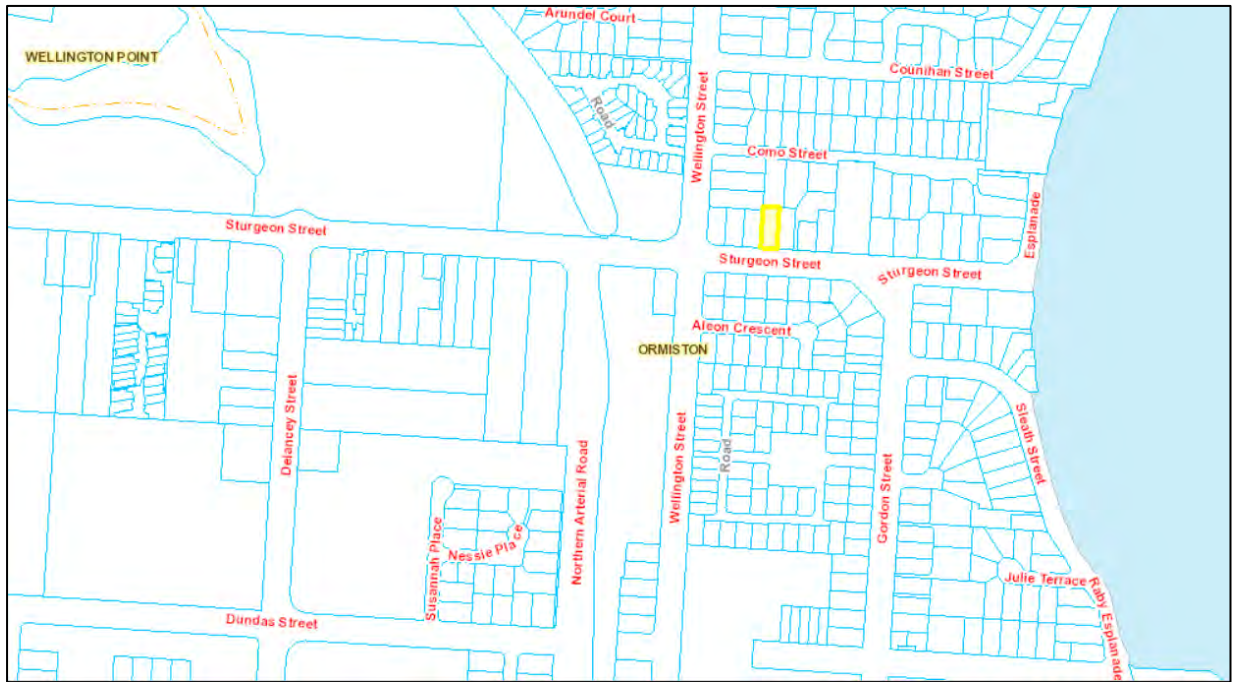
1. Adopt the Officer's Recommendation to refuse the application; or
2. Resolve to approve the application, subject to conditions and an adopted infrastructure charges notice.

OFFICER'S RECOMMENDATION

That Council resolves to refuse the application for Reconfiguring a Lot for a one (1) into two (2) lot subdivision on land described as Lot 1 on RP 122006 and situated at 29 Sturgeon Street, Ormiston, for the reasons listed below:

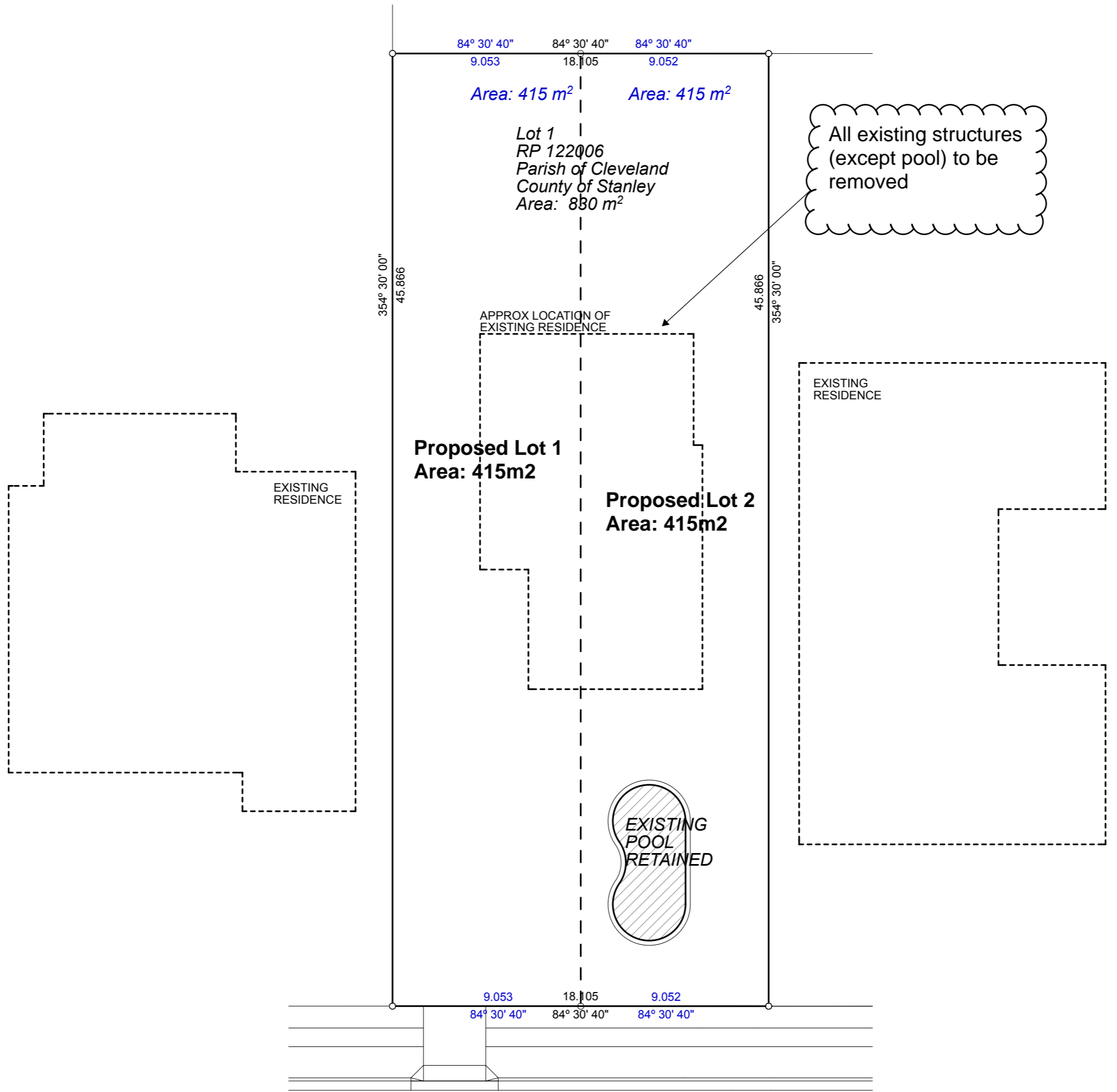
- 1 The proposed lot frontage is inconsistent with the existing and expected streetscape, character and form of development within the area and therefore conflicts with Specific Outcome S1 and Overall Outcomes 2(b)(ii), 2(c) of the Urban Residential Zone Code and Specific Outcome S3 and Overall Outcomes 2(d), 2(e) and 2(g) of the Reconfiguration Code; and**
- 2 There are insufficient grounds to justify an approval despite the conflict with the Redlands Planning Scheme.**

ATTACHMENT 1 - Locality Plan



ATTACHMENT 2 - Aerial Plan





S T U R G E O N S T R E E T

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DATE	REVISION	NO.

CLIENT
T. REINKE

PROJECT
PROPOSED LOT RECONFIGURATION
29 STURGEON ST
ORMISTON QLD 4160

DRAWING TITLE
SITE PLAN


DATE **7/4/15**
DRAWN **DBD**
ISSUE **25/05/2015**
REVISION
SCALE (A3 SHEET)
DRAWING NO.

0600.P.01

11.2.5 ROL005873 – 35-41 WRIGHTSON ROAD, THORNLANDS – 1 INTO 43 LOTS

Objective Reference: A279040
Reports and Attachments (Archives)

Attachments: [Attachment 1 ROL005873 – MC005399 Layout](#)
[ROL005873 Attachment 2 Stage 1 Layout](#)
[ROL005873 Attachment 3 Stage 2 Layout](#)

Authorising Officer: 
Louise Rusan
General Manager Community & Customer Services

Responsible Officer: David Jeanes
Group Manager City Planning and Assessment

Report Author: Brendan Mitchell
Planning Officer

PURPOSE

Council has received an application seeking a Development Permit for Reconfiguring a Lot on land at 35-41 Wrightson Road, Thornlands, for the purpose of a one (1) into 43 lots subdivision, plus road and a public use lot for stormwater management. This application is referred to the General Meeting of Council for determination.

The application has been assessed against the relevant provisions of the Redlands Planning Scheme. The key issues identified in the assessment are:

- Lot size;
- Access; and
- Odour issues from the adjoining poultry farm.

These issues have been addressed in the report, however it is noted that there will be unacceptable impacts from poultry odour on Stage 2 of the development. It is therefore recommended that a development permit be given for Stage 1 and a preliminary approval be given for Stage 2 subject to the cessation of the adjoining poultry farm.

BACKGROUND

The following outlines two (2) development applications lodged over or adjoining the site:

MC005399 – A Material Change of Use for Dwelling Houses including a Residential A subdivision of 128 lots (site zoned RNU) was lodged in 1999 which included the area currently proposed for development under ROL005873 (attachment 1). This was to be followed by a Reconfiguration application. Council, at the time, had concerns with regards to the site's proximity to a poultry farm. The application was withdrawn before a response to the information request was made.

MC006632 – A combined Material Change of Use (Rezoning) and Reconfiguration (120 lots) was received by Council in 2002 on adjoining land at 173 Panorama Drive. Lot 120 (subject site for ROL005873) was proposed as a separate lot which would retain the existing Rural Non-Urban (RNU) zoning. This part of the lot was within the poultry buffer, and was therefore not proposed for residential development at that time in order to avoid the trigger for assessment of poultry odour concerns.

The application was subsequently issued a development permit by the Court in October 2002 and has subsequently been developed.

ISSUES

Development Proposal & Site Description

Proposal

The proposal seeks a development for reconfiguring a lot for one (1) into 43 lots over two (2) stages, which will result in the creation of:

- Forty-two (42) standard lots ranging in size from 412m² to 874m², each with frontages ≥ 14m;
- One (1) internal lot with an area of 929m² and accessway of 4.5m wide;
- New road; and
- 1 public use lot with an area of 2006m² for stormwater management.

Site & Locality

The site is partly zoned Urban Residential, within sub-area UR1, and partly Low Density Residential for the southern portion of the site. The site has an area of 35,560m² and is currently improved by a single domestic outbuilding, which the applicant indicates will be removed from the site. It is predominantly clear of vegetation and the land slopes towards the north-east and east. The site is in the Kinross Road Structure Plan Area and is surrounded by existing Urban Residential zoned house lots to the north and east, existing Low Density zoned house lots to the south, and vacant agricultural land to the west which is zoned for Urban Residential and Medium Density Residential purposes.

To the south-west is an existing poultry farm which is also zoned for residential use. The site is located on the southern side of the unformed Wrightson Road, and has road frontage to Whitby Place and Caldwell Close. A drainage easement traverses the full length of the eastern boundary of the site.

Application Assessment

Sustainable Planning Act 2009

The application has been made in accordance with the *Sustainable Planning Act 2009* (SPA) Chapter 6 – Integrated Development Assessment System (IDAS) and constitutes an application for Reconfiguring a Lot under the Redlands Planning Scheme.

Minor Change

The applicant originally submitted a proposal that included a layout with a road abutting the property to the west. After the information request and further discussions with Council, the applicant submitted a changed layout plan that moved

the road so that it did not allow future connection to the west. The proposed change is a minor change as per S350 of SPA as the change does not result in a substantially different development as follows:

- The number of proposed lots remained the same;
- The proposed change does not introduce new impacts or increase the severity of known impacts; and
- The proposed change does not significantly impact on traffic flow and the transport network. The proposed change maintains a road network that is directed to the east towards Panorama Drive.

SEQ Regional Plan 2009-2031

The site is located within the Urban Footprint in the SEQ Regional Plan 2009-2031. The proposed residential lots comply with the intent of the Urban Footprint designation of the Regional Plan.

State Planning Policies & Regulatory Provisions

State Planning Policy / Regulatory Provision	Applicability to Application
SEQ Koala Conservation SPRP	The site is in the assessable area under the SEQ Koala Conservation SPRP and is within a Koala Broad-Hectare Area. The site is designated as High Value Rehabilitation, with small areas along the southern boundary mapped as High Value Other. Division 3 of the SPRP applies. This division requires that the development design incorporates movement corridors and food species for koalas. There are no direct requirements for replanting. Schedule 2 of the SPRP acknowledges constraints from development such as subdivision design and its associated infrastructure and edge effects. The proposed layout does not obstruct fauna movement in itself, and it is recognised that any residential subdivision will have some level of impact on Koala movement. The SPRP requirements are considered to be met through provision of movement corridors via street tree planting.
SPRP (Adopted Charges)	The development is subject to infrastructure charges in accordance with the SPRP (adopted charges) and Council's adopted resolution. Details of the charges applicable have been provided under the Infrastructure Charges heading of this report.
State Planning Policy July 2014	<p>The site is mapped as having the following designations:</p> <ul style="list-style-type: none"> • BIODIVERSITY - MSES - Regulated vegetation (intersecting a watercourse); <p>The biodiversity designation only just touches the site boundary where adjoining house lots exist. The matters related to vegetation intersecting a watercourse are not</p>

State Planning Policy / Regulatory Provision	Applicability to Application
	<p>relevant in this part of the site (cleared land adjoining existing residential houses).</p> <ul style="list-style-type: none"> • WATER QUALITY - Climatic regions - stormwater management design objectives; <p>The submitted Stormwater Management Plan adequately demonstrates that the SPP requirements in relation to water quality have been met.</p> <ul style="list-style-type: none"> • NATURAL HAZARDS RISK AND RESILIENCE - Potential bushfire impact buffer. <p>SARA mapping identifies part of the subject site (towards the south west corner) as a potential impact buffer to a bushfire hazard on the adjoining property to the south-west. The potential buffer affects stage 2 (along the south west corner of the lot) of the development, which, as discussed later in the report, is only recommended for a preliminary approval. A condition will form part of the preliminary approval to ensure compliance with the SPP for potential bushfire impact as part of the future application for a development permit. Considering the above, the State interest is considered to have been addressed.</p>

Redlands Planning Scheme

The application has been assessed under the Redlands Planning Scheme version 6.2.

The application is subject to code assessment and the following codes are applicable to the assessment:

- Kinross Road Structure Plan Overlay Code
- Low Density Residential Zone Code
- Urban Residential Zone Code
- Reconfiguration Code
- Development Near Underground Infrastructure Code
- Excavation and Fill Code
- Infrastructure Works Code
- Landscape Code
- Stormwater Management Code
- Flood Storm and Drainage Constrained Land Overlay Code
- Landslide Hazard Overlay Code
- Protection of Poultry Industry Overlay Code

The development is considered to generally comply with these codes whilst further information from the applicant is needed to gain development approval for stage 2 of the proposed development. The pertinent issues in the assessment are discussed below.

Lot Size

It is noted that section 5.15.2 (14) of the Kinross Road Structure Plan Overlay code indicates that minimum lot sizes identified in the Reconfiguration Code do not apply to development within the structure plan area. The southern portion of the site is within Precinct 5a of the Kinross Road Structure Plan (KRSP), along with the properties off Milner Place to the south. Probable Solution P1.6 (3) of the overlay code identifies one way to address the relevant Specific Outcome; by creating lots within this precinct with a minimum size of 1600m², and minimum frontage of 30m. The applicant has proposed 800m², 24m wide properties along this boundary. This is considered to meet Specific Outcomes S1.6 (2) and (3), with the proposed lot size considered to provide a suitable transition zone between the low density and urban residential parts of the structure plan area, whilst protecting the low density residential amenity of existing lots off Milner Place.

It is noted that the UR1 zoning of the site encourages multiple dwelling development. A greater transition zone would be considered necessary if the proposed development within the UR1 zoned area was multiple dwellings, rather than detached lots as proposed. A condition is recommended requiring a minimum setback of 5 metres from the rear boundaries of these interface lots to ensure compliance with the specific outcomes of the planning scheme.

Specific Outcome S1.6 (2d) Kinross Road Structure Plan Overlay code indicates that development in Precinct 5a is to retain and protect significant trees of landscape value located across the rear of lots that directly adjoin existing dwelling houses in Milner Place. It is noted that the purpose is amenity reasons rather than the environmental significance of the vegetation. The above noted recommended rear setback condition is considered sufficient to ensure compliance with the specific outcome.

Access

Specific Outcome S2.1 (4) (a), (b), (c) and (k)) of the Kinross Road Structure Plan Overlay Code specifies for access streets and access places to be designed and located to:

- provide a high level of internal accessibility for cars, cyclists and pedestrians through the use of a highly connected, permeable grid pattern layout;
- avoid the use of cul-de-sacs to the greatest extent practicable;
- ensure where cul-de-sacs must be used they are designed to –
- ensure the end of the cul-de-sac is visible from the entry to the cul-de-sac to prevent drivers inadvertently turning into dead ends;
- restrict access to a maximum of ten (10) dwelling units; and
- provide pedestrian and cyclist connections through the cul-de-sac to adjoining streets; ensure no new vehicular access is provided between Whitby Place and new residential development to the west in Subprecinct 4a;

In addition, Specific Outcome S1.5 (1) states that the lot layout in Precinct 4, as a whole, should be designed to provide a network of pedestrian and cycle paths and vehicular movement routes that maximise connectivity, permeability and ease of mobility, and ensure the provision of cul-de-sacs are avoided to the greatest extent practicable.

The proposal involves the extension of two existing culs-de-sac in Whitby Place and Caldwell Close to provide access to the development site, resulting in a closed loop

road system. This is considered to achieve the first elements of the specific outcome in terms of permeable layout and avoidance of culs-de-sac.

On the other hand, the second element of the specific outcome is that there is no extension of Whitby Place to the west. The intent of this requirement is to restrict access between Kinross Road and Panorama Drive in this location while maintaining pedestrian access with minimal impact on vegetation. This intent is reinforced by the fact that the subject site is to the south of Whitby Place, not to the west. Furthermore, it is noted that there is no similar reference to Caldwell Close in the specific outcome. This again demonstrates the planning scheme intent that Whitby Place/Wrightson Road would be extended through to Kinross Road. The proposed layout ensures that there is no through connection between Panorama Drive and Kinross Road in this location.

The application proposes an additional 43 lots to be connected to the local road network through Whitby Place, Caldwell Close and Carlingford Drive, accessing Panorama Drive at the intersection that Ziegenfusz Road. A traffic impact assessment has been provided by the applicant that indicates that the intersection, with the additional traffic generated by the development, will operate within acceptable operational limits. The report indicates that no mitigation measures are required to the Panorama Drive/Ziegenfusz Road/Carlingford Drive intersection, to accommodate the traffic generated by the proposed development.

Council's engineers are satisfied that the local road network can accommodate the additional lots, with the Carlingford Drive pavement being 7m wide (equivalent to a residential collector street), which is suitable to accommodate traffic generated by the number of lots in the catchment area. Caldwell Close and Whitby Place can function as access streets, with a reserve width of 15m and pavement width of 6m in accordance with Part 9 Schedule 6, Movement Network and Road Design of the RPS. The proposal has allows a loop road system that is a better outcome than a cul-de-sac in facilitating operation of the local road network, as sought by the planning scheme. As indicated in the table below, the impact of the additional traffic on the local road affected is within the traffic catchments which the roads have been designed to accommodate:

	Carlingford Drive	Caldwell Close	Whitby Place
Pavement	7m wide	6m wide	6m wide
Road Type	Collector Street	Access Street	Access Street
Maximum Traffic Catchment (refer to Part 9, Schedule 6 of the RPS)	300 lots	100 Lots	100 Lots
Estimated traffic catchment (including proposed development)	140 lots	11 existing plus approximately 35 new = 46 lots	21 existing plus approximately 8 new = 29 lots

Both Caldwell Close and Whitby Place, being culs-de-sac, could be identified as access places. However it is noted that the planning scheme policy intends that access places service up to 10 lots, while both Caldwell Close and Whitby Place currently service 11 and 21 lots respectively. Both roads have a reserve width of 15m, a pavement width of 6m and meet access street standards. As such, it is considered that these roads are designed to accommodate up to 100 lots which is more than double the capacity necessary to accommodate this development.

The proposed road layout is considered to provide an integrated, accessible and interconnected road network which minimises culs-de-sac, whilst ensuring appropriate levels of safety and amenity and protection from the impact of traffic movements, as it does not exceed the capacity that the local road network has been designed to carry.

Further, the proposed access to the site is considered to comply with the Overall Outcomes relating to infrastructure, which state that the use of existing infrastructure networks is to be maximised and the extension of such networks is to be done in an orderly, sustainable and cost effective manner.

It is noted that the structure plan has been designed with two access points to the external road network, being Kinross Road and a connection closer to the intersection of Panorama Drive and Boundary Road. As part of the Kinross Road Structure Plan (KRSP) Council engaged an external traffic engineer to provide advice on access points into and out of the KRSP and to analyse the anticipated capacity of existing and proposed roads in the area. The report stated that the current access arrangement for the KRSP is not optimal but would be functional.

This would result in a large catchment, primarily accessed via a single access point, being the intersection of Boundary Road and Kinross Road. The proposed layout would see the subject site accessed from Panorama Drive which would reduce the trip generation by 280 trips per day for that catchment. This is considered to be a positive outcome by making better use of existing infrastructure and reducing the traffic volume on Kinross Road.

In relation to the access off the Whitby Place cul-de-sac, it is noted that part of the road reserve is within Precinct 7e of the Kinross Road Structure Plan Overlay code, with only a small section of the road reserve outside of the precinct boundary. Map 2 of the overlay code also indicates that the part of Whitby Place within the 7e precinct, and the full extent of Wrightson Road, is to remain closed and unconstructed.

This is also required by S2.1 (4j) of the code, which indicates that no new vehicular access is provided to the section of Wrightson Road included within the greenspace precinct (precinct 7). Although no concerns are raised with the extension of Whitby Place and Caldwell Close (addressed above from a traffic impact perspective), the location of the access to the site from Whitby Place is partially through the 7e precinct and requires tree removal. The overlay code specifies protection of these trees as follows:

- S1.8 (1b) (iv and v) which requires koala habitat trees to be retained to the greatest extent practicable, and that where retained, appropriate buffers are established between development and the trees to ensure their ongoing protection and viability;
- S1.9 (1) which requires that the greenspace network (precinct 7) enhances, protects, rehabilitates and maintains environmental, landscape, scenic and

recreational values, protects, manages and enhances koala habitat, and protects remnant and non-remnant vegetation;

- S1.9 (6) which requires that Sub-Precinct 7e protects and enhances publicly owned land that links with a core node of Regional Ecosystem 12.3.6, as well as linear non remnant vegetation which serve as a habitat to local fauna populations, and manages, buffers and enhances patches of high value koala habitat;
- S2.1 (4d) which requires maximisation of retention of individual trees and stands of native trees by incorporating these features into the road design; and
- S2.1 (5 d and f) which requires that no part of the road pavement is constructed within the greenspace precinct, and that the retention of existing individual or stands of native trees is maximised by incorporating these features into the road design.

Part of the road reserve within Precinct 7e is also designated as Bushland Habitat under the Habitat Protection Overlay code. The proposal indicates that the proposed Whitby Place extension will necessitate the clearing of two non-juvenile koala habitat trees within the road reserve/precinct 7e area, which has been confirmed on a site visit by Council officers.

The applicant has indicated that the access from Whitby Place has been designed to achieve the best outcome from a traffic perspective (safe ingress and egress to the site), with the clearest possible sightlines when coming around the corner.

It is noted that the proposed access to the site from Whitby Place does not need to traverse Precinct 7e, as there is sufficient area to allow an access to the west of this precinct. However, that option would result in the loss of more vegetation than the proposed access option. As such, it is considered that the proposal is a better outcome.

In addition, the KRSP overlay code requires a pathway connection through Precinct 7e, which would result in the loss of koala habitat trees. There is therefore a conflict between two elements of the Code. Once again, it is considered that the proposal represents the best outcomes for the site, by facilitating a loop road, making efficient use of existing infrastructure, while restricting the clearing of non-juvenile koala habitat trees to two trees.

Specific Outcome S2.1 (4) (g) of the Bushland Habitat Overlay Code anticipates that some clearing may occur, and provides for offset planting to occur in accordance with the relevant state planning policy, currently Queensland Environmental Offset Act 2014. This will form part of the conditions of approval.

Poultry Overlay

The entire development site is designated as being within the poultry buffer under the Protection of the Poultry Industry Overlay. The designation of the buffer is not based on site specific odour monitoring, but rather, is based on distance of 500m from an existing poultry farm. Its initial purpose is to trigger assessment of the impacts from the poultry farm on proposed development.

Specific outcome S1.1 of the overlay code require that development does not impact on the current operation or future expansion of the poultry industry by ensuring that reconfiguration does not result in the creation of additional residential lots in the

poultry buffer. The proposal does not meet this specific outcome of the overlay code, and is therefore assessed against the overall outcomes which require that development:

- Protects the ongoing operation of the poultry industry from uses that are sensitive to its operations; and
- Ensures development is sited and designed to ameliorate odour impacts generated by the poultry industry.

The applicant submitted a reverse amenity assessment with the application prepared by a recognised odour consultant. This assessment provided a desktop study of the potential odour impacts on the development site, using an emissions model. This model predicts odour impacts, taking into consideration the number and age of birds, temperature, wind speed and direction, topography and atmospheric turbulence. The study assumed a worse-case scenario, as neither the applicant nor Council have any control over the operation of the poultry farm.

The assessment established an area on the site that is suitable for residential development, as this area will experience very limited odour impacts that are considered reasonable to accept in a residential environment. The proposal identifies this area as Stage 1, which accommodates 31 lots. The assessment identifies that this is subject to the placement of a 20 metre wide vegetated buffer along the western boundary of the Stage 1 area. The assessment then identifies that the balance of the land (on the western side of the site) is not suitable for residential development while the poultry farm is in operation, due to unacceptable odour impacts.

Given that there were concerns raised with the methodology used for the reverse amenity assessment, Council engaged a third party odour consultant to review the report and modelling provided. The consultant made a number of recommendations following discussions with the applicant's odour consultant. Following a number of minor amendments to their methodology and subsequent adjustments to the staging plan, Council's odour consultant was satisfied that the concerns raised were addressed and made two recommendations:

- Notifying residents of Stage 1 of the development that odour from the poultry farm will be detectable at times; and
- Require the installation (including certification) and maintenance of the vegetative buffer recommended in the odour report. This buffer is to be installed prior to occupancy of any lots and maintained as required until the cessation of the adjacent poultry farming activity.

In addition to this, the applicant's consultant provided a number of recommendations with regards to the landscaping buffer which are shown on the proposed reconfiguration plan and reflected in the recommended conditions of the approval for Stage 1.

In terms of overall outcomes of the overlay code, it is considered that the first item (protecting the ongoing operation of the poultry industry), falls away given the zoning of the Kinross Road Structure Plan area for the preferred residential use. The proposal complies with the long term intent of the site for residential development, as long as the short term impacts are managed. The second item (the development is designed to ameliorate odour impacts) is considered to be achieved by exclusion of development on the western side of the site until the poultry farm is abandoned and

provision of a vegetated buffer to screen the poultry farm from view and provide dispersion of odour plumes. As discussed, these matters have been confirmed by Council's odour consultant.

In summarising, it is considered that Stage 1 of the proposal complies with the overlay code. As stage 2 can only comply one the poultry farm use is abandoned, a preliminary approval is recommended for Stage 2, subject to cessation of the poultry farm.

Adjoining Rural Uses (excluding poultry farm)

Specific Outcome S4.1 of the Kinross Road Structure Plan overlay code requires that development is to be located and designed to protect the ongoing operation of existing agricultural, rural and light industrial activities by limiting the potential impacts by incorporating attenuation measures or staging plans that respect the ongoing activity. This is also required by S1.1 of the Reconfiguration Code which requires that development maintains a high level of environmental amenity from existing or potential emissions such as noise and air quality impacts and does not compromise the ongoing operation of existing uses.

Aerial photography indicates that the property to the west is currently used for agricultural purposes, however the location of agricultural uses on site (dating back as far as 2010), indicates that the use occupies the western part of the site at 53-65 Kinross Road, separated from the development site by approximately 180m. The key issue in this regard is lighting and spray drift impacts, which are considered to be mitigated by both distance and future fencing along the western boundary. It is considered that the development complies with Specific Outcome S4.1 of the KRSP overlay code and S1.1 of the Reconfiguration Code.

Benching of Lots

Specific Outcome S1.5 (1b)(vii and ix) of the Kinross Road Structure Plan Overlay code, indicates that lot layout is to avoid to the greatest possible extent practicable, the benching of new lots, and that cut and fill on new lots over 500m² with an existing slope greater than 10% is avoided with dwelling design restricted to non-slab on ground techniques.

The lot falls from 62.25 AHD along the south west corner of the lot to 56.25 AHD along the north eastern corner of the lot. Typical slope of the land is in the order of 4 to 5%, and therefore not exceeding 10%. The lots are proposed following the contours of the land, with stormwater split to three separate catchments to reduce the amount to cut and fill required on the site.

Retaining walls will generally be up to 0.8m high, with the exception of Lot 21-24, with 1.5m high retaining walls. It is recognised that these walls are located only along the rear boundaries and adjoin proposed new lots, rather than existing development. A tiered retaining wall will be required around the bio retention basin to achieve the required levels within this area.

Overall, the application is considered to meet the overall outcomes of the overlay code relating to earthworks, which require that the development respects the existing topography and minimises the need for excavation and fill by following the contour of the land.

Stormwater

The applicant has supplied a stormwater management plan which indicates that stormwater from the site will be directed as follows:

- The majority of flows will be directed to a detention/bio-retention basin in the south-east corner of the site;
- Runoff from the northern catchment will be discharged to the existing piped stormwater system within Whitby Place, with a gross pollutant trap provided to improve water quality. It is noted that the flows discharging from the northern catchment will be reduced from pre to post-development, as flows from part of the existing northern catchment will be directed south as a result of proposed earthworks.
- A small portion of the site will discharge east to Caldwell Close, with the small catchment area being insufficient to cause an actionable nuisance.

The report indicates that although the existing drainage of the site discharges to two separate locations (north and south), it ultimately discharges into the same drainage line, the Rushwood sanctuary area to the east (a tributary of Hilliards Creek).

From a quantity perspective, the report concludes that potential impacts of any increased flows from the northern catchment (which will only occur for the 2 year ARI event) are considered negligible and satisfactory, given the discharge is to a piped stormwater system. No detention was considered necessary for this catchment. The report indicates that the existing stormwater systems on Whitby Place and Caldwell Close have sufficient capacity to receive the runoff from the site post-development.

For the southern catchment, the report concludes that the proposed detention basin will effectively mitigate peak discharges for all events apart from the 2 year ARI event (which only has a minor increase in flows), and that overall, reductions in peak discharge of approximately 18-30% have been achieved for the total site. The report indicates that it is not considered that the minor increase in 2 year ARI flows from the southern catchment will cause adverse impacts on the receiving waterway. Overall, the report demonstrates achievement of no-worsening of the peak discharge for the 2 to 100 year ARI events (refer to table 5-17 of the report).

There is a PIP stormwater network on the subject lot described as (PIP map references Bio Retention Basin J, GPT J and Detention basin 8). The levels of service in the PIP and definition of trunk infrastructure in the Council's resolution imply that a catchment includes more than one (1) development site to constitute shared infrastructure.

The applicant's stormwater management plan demonstrates that the bio basin located on the site will only service this development. As such there is no sharing of the infrastructure due to the entire sub catchment being contained within the subject site. Therefore the proposed stormwater infrastructure is not eligible for an offset under the relevant conversion criteria.

It is noted that there is a current easement along the eastern boundary of the site. The easement is for drainage purposes in favour of Council. With the proposed stormwater management in place, the easement is superfluous and can be extinguished.

It is noted that section 10.4 of the easement documentation indicates that upon the site being developed such that the existing drainage works are no longer required, that Council must execute a surrender of the easement, such that the easement will no longer be in force and effect.

Relevant Period

Section 341 of the Sustainable Planning Act indicates that a reconfiguration approval which requires subsequent operational works application, will lapse after four years, if the plan for the reconfiguration is not given to the local government. Unlike for a material change of use, which only requires the 'first change of use under the approval' to occur, the lapsing trigger for a reconfiguration requires all stages to be completed within the four year period.

If the application is approved, as Stage 2 cannot be constructed until the use of the nearby poultry farm has ceased, to give certainty to the approval, a condition will be required which states a different time period to that required under s341 (2b) of the Sustainable Planning Act.

It is recommended that Stage 2 of the development is given a 10 year relevant period, considering that City Plan 2015 is on public consultation and similar outcomes will be anticipated during the life time of that scheme.

Infrastructure Charges

The proposed development is subject to infrastructure charges in accordance with the State Planning Regulatory Provisions (adopted charges). The total charge applicable to this development is:

Stage 1 – 31 lots (note: no ICN for Stage 2 will be given until a future development permit given)

Notice Number 001058

Redland Water: \$176,400.00

Redland City Council: \$663,600.00

Combined charge: \$840,000.00

This charge has been calculated as follows in accordance with Council's [Adopted Infrastructure Charges Resolution \(No. 2.2\) September 2015](#):

Redland Council	City	
Residential Component (31 X 3 bedroom residential dwellings X \$28,000) X 0.79 (RCC Split)		\$685,720.00
Demand Credit (1 X 3 bedroom residential dwelling X \$28,000) X 0.79 (RCC Split)		\$22,120.00
Total Council Charge:		\$663,600.00

Redland Water	
Residential Component	
(31 X 3 bedroom residential dwellings X \$28,000) X 0.21 (RW Split))	\$182,280.00
Demand Credit	
((1 X 3 bedroom residential dwelling X \$28,000) X 0.21 (RW Split))	\$5,880.00
Total Redland Water Charge: \$176,400.00	

OFFSETS

There are no offsets that apply under Chapter 8 Part 2 of the *Sustainable Planning Act 2009*.

REFUNDS

There are no refunds that apply under Chapter 8 Part 2 of the *Sustainable Planning Act 2009*.

State Referral Agencies

The application did not trigger any State referral requirements.

Public Consultation

The proposed development is Code assessable and did not require public notification. Therefore no properly made submissions were received.

A number of informal submissions were received by Council raising concerns in regards to the development. All of the concerns are addressed in the assessment.

Deemed Approval

This application has not been deemed approved under Section 331 of the *Sustainable Planning Act 2009*.

STRATEGIC IMPLICATIONS

Legislative Requirements

In accordance with the *Sustainable Planning Act 2009* this development application has been assessed against the Redlands Planning Scheme V7 and other relevant planning instruments.

Risk Management

Standard development application risks apply. In accordance with the *Sustainable Planning Act 2009* the applicant may appeal to the Planning and Environment Court against a condition of approval or against a decision to refuse or give a preliminary approval.

Financial

If approved, Council will collect infrastructure contributions in accordance with the State Planning Regulatory Provisions (adopted charges) and Council's Adopted Infrastructure Charges Resolution.

People

Not applicable. There are no implications for staff.

Environmental

Environmental implications are detailed within the assessment in the "issues" section of this report.

Social

Social implications are detailed within the assessment in the "issues" section of this report.

Alignment with Council's Policy and Plans

The assessment and officer's recommendation align with Council's policies and plans as described within the "issues" section of this report.

CONSULTATION

The assessment manager has consulted with other internal assessment teams where appropriate. Advice has been received from relevant officers and forms part of the assessment of the application. Officers have also consulted with the relevant asset owners in City Spaces, City Infrastructure and Redland Water.

OPTIONS

The development application has been assessed against the Redlands Planning Scheme and relevant State planning instruments. The development complies with the instruments and it is therefore recommended that the application be approved with a development permit for Stage 1 and preliminary approval for Stage 2 subject to conditions.

Council's options are to either:

1. Adopt the officer's recommendation to grant a development permit with conditions for Stage 1 and a preliminary approval for Stage 2; or
2. Resolve to grant development permits subject to conditions for Stages 1 and 2; or
3. Resolve to approve the application, without conditions or subject to different or amended conditions; or
4. Resolve to refuse the application.

OFFICER'S RECOMMENDATION

That Council resolves to issue a Development Permit subject to conditions for the Reconfiguring a Lot application for 1 into 31 lots (Stage 1 only) and issue a Preliminary Approval for 1 into 12 lots (Stage 2) on land described as Lot 109 on SP154935 and situated at 35-41 Wrightson Road, Thornlands, subject to the following conditions:

Stage 1 – Development Permit

<u>ASSESSMENT MANAGER CONDITIONS</u>		<u>TIMING</u>	
1. Comply with all conditions of this approval, at no cost to Council, at the timing periods specified in the right-hand column. Where the column indicates that the condition is an ongoing condition, that condition must be complied with for the life of the development.			
<u>Approved Plans and Documents</u>			
2. Undertake the development in accordance with the approved plans and documents referred to in Table 1, subject to the conditions of this approval and any notations by Council on the plans.		Prior to Council approval of the Survey Plan.	
Plan/Document Title	Reference Number	Prepared By	Plan/Doc. Date
ROL Plan – Stage One	Sheet No. 1114076_01 Rev E	Place Design Group	13/07/2015
Civil Engineering Infrastructure Report	Aa/8114	Sheehy & Partners Pty Ltd	22/12/2014
Site Based Stormwater Management Plan	3678-01R01V02	Water Technology	December 2014
Landscape Masterplan and Design Intent		Place Design Group	December 2014
Landscape Concept	SK02 / A	Place Design Group	18.12.2014
Landscape Master Plan	SK03 / A	Place Design Group	18.12.2014
Landscape Structure Plan	SK04 / A	Place Design Group	18.12.2014
Landscape Concept	SK05 / A	Place Design Group	18.12.2014
Landscape Concept	SK06 / A	Place Design Group	18.12.2014
Landscape Concept – Entry Landscape Vision	SK07 / A	Place Design Group	18.12.2014
Planting Palette	SK08 / A	Place Design Group	18.12.2014
Planting Palette	SK09 / A	Place Design Group	18.12.2014
Storm Management– Planting Palette	SK10 / A	Place Design Group	18.12.2014
Table 1: Approved Plans and Documents			
3. Submit to Council a Survey Plan for Compliance Certificate approval, in accordance with the approved plans, following compliance with all relevant conditions		Prior to expiry of the relevant period for the approved	

and requirements of this approval.	development.
<u>Existing Structures</u>	
4. Demolish or relocate/remove or obtain the relevant approvals for all existing structures on site, including all slabs and footings, in accordance with the approved plan and cap all services prior to demolition commencing.	Prior to Council approval of the Survey Plan.
5. Remove any existing fences and/or incidental works that straddle the new boundaries, or alter to realign with the new property boundaries or to be wholly contained within one of the new properties.	Prior to Council approval of the Survey Plan.
<u>Utility Services</u>	
6. Relocate any services (eg water, sewer, electricity, telecommunications and roofwater) that are not wholly located within the lots that are being serviced.	Prior to Council approval of the Survey Plan.
7. Pay the cost of any alterations to existing public utility mains, services or installations due to building and works in relation to the proposed development, or any works required by conditions of this approval. Any cost incurred by Council must be paid in accordance with the terms of any cost estimate provided to perform the works.	At the time the works occur, or prior to Council approval of the Survey Plan, whichever is the sooner.
8. Design and install underground electricity and telecommunication conduits to service all lots in accordance with the requirements of the relevant service providers and the Redlands Planning Scheme Infrastructure Works code and Planning Scheme Policy 9 – Infrastructure Works. Provide Council with written confirmation of the service provider agreements to the supply of electricity and telecommunication services.	Prior to Council approval of the Survey Plan.
<u>Land Dedication and Design</u>	
9. Submit a plan(s) identifying a building envelope for proposed lots 33 to 36 that restricts buildings on these lots to having a minimum setback of 5 metres from the rear boundaries of these lots.	As part of the request for compliance assessment of the Survey Plan.
10. Grant easements for the following and submit the relevant easement documentation to Council for approval. Once approved by Council, register the easements on the property title. <ul style="list-style-type: none"> a) Stormwater drainage purposes along the entire rear boundary of Lots 37 to 42 in favour of the upstream property owners (i.e. Lots 38 to 42); b) Access for construction, inspection and maintenance of sewerage maintenance holes (MH) where located within the proposed Lot boundaries, in favour of 	As part of the request for compliance assessment of the Survey Plan.

<p>Redland City Council and its agents; and</p> <p>c) Road - vehicle turn around purposes (approximately 625m²) on 'Balance Lot' as generally shown on approved plan 1114076_01/E.</p>	
<u>Split Valuation</u>	
<p>11. Pay a contribution to Council for the purposes of paying the State Government Split Valuation Fees. The current value of the contribution is \$34.10 per allotment (2015/2016 Financial Year). The amount of contribution must be paid at the rate applicable at the time of payment. A Split Valuation Fee is required for each allotment contained on the Plan(s) of Survey, including balance lots.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<u>Access and Roadworks</u>	
<p>12. Design all roads in accordance with the provisions of Complete Streets, the Redlands Planning Scheme Infrastructure Works Code, Planning Scheme Policy 9 – Infrastructure Works and Schedule 6 – Movement Network and Road Design, unless otherwise stated as part of a specific condition of this approval.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<p>13. Provide traffic calming consistent with the provisions of Complete Streets, the Redlands Planning Scheme Infrastructure Works Code, Planning Scheme Policy 9 – Infrastructure Works and Schedule 6 – Movement Network and Road Design.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<p>14. Remove all redundant vehicle crossovers and reinstate kerb and channel, road pavement, service and footpaths as specified in accordance with the standards in the Redlands Planning Scheme Policy 9 – Infrastructure Works.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<p>15. Submit to Council, <u>and gain approval for</u>, a road naming plan, in accordance with Council's road naming guidelines, detailing specific road names and designations for all existing and proposed new public roads within the site. Use original road names on all new roads to avoid duplication of any existing road names in the City.</p>	<p>Prior to preparing your Survey Plan.</p>
<p>16. Design and construct a full size cul-de-sac head for vehicle turn around purposes, inside 'Balance Lot' as generally indicated on approved plan 1114076_01/E. Design must be in accordance with the requirements the Redlands Planning Scheme – Infrastructure Works Code.</p>	<p>Prior to on maintenance or Council approval of the Survey Plan, whichever is the sooner.</p>

<u>Stormwater Management</u>	
<p>17. Convey roof water and surface water in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management to:</p> <ul style="list-style-type: none"> • A lawful point of discharge generally in accordance with the approved Civil Engineering Infrastructure Report. 	<p>Prior to on maintenance or Council approval of the Survey Plan, whichever is the sooner.</p> <p>Ongoing condition.</p>
<p>18. Manage stormwater discharge from the site in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management, so as to not cause an actionable nuisance to adjoining properties.</p>	<p>Prior to on maintenance or Council approval of the Survey Plan, whichever is the sooner.</p> <p>Ongoing condition.</p>
<p>19. Submit to Council, and receive Operational Works approval for, a stormwater assessment that is generally in accordance with the approved Civil Engineering Infrastructure Report prepared by Sheehy and Partners Consulting Engineers and the conceptual Site-Based Stormwater Management Plan 3678-01R01V04 prepared by Water Technologies, and addresses both quality and quantity of stormwater management in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management.</p> <p>The proposed design and layout of the detention basin/biobasin must be in accordance with the provisions of the Bioretention Technical Design Guidelines V1.1 2014 and requires a maintenance access track.</p>	<p>As part of the application for Operational Works or prior to Council approval of the Survey Plan, whichever is the sooner.</p>
<u>Waste Management</u>	
<p>20. Provide bin service bays for placement of waste and recycling bins for the purpose of emptying bins only (not for storage of bins) to serve proposed Lots 36, 37 and 38. Construct each bin bay of stamped concrete in accordance with the following:</p> <ul style="list-style-type: none"> • 2m long x 1m wide on the road frontage adjacent to each lot. • Located so that the length is parallel to the road edge without impeding any swale drainage or existing/proposed driveway. • Marked 'bin service bay' in letters of 200mm height. 	<p>Prior to Council approval of the Survey Plan.</p>
<u>Water and Wastewater</u>	
<p>21. Connect all lots to the existing reticulated sewerage and reticulated water systems. Submit to Council for approval an application for Operational Works showing the proposed works are in accordance with the SEQ Water Supply and Sewerage Design and Construction Code and</p>	<p>Prior to Council approval of the Survey Plan.</p>

the Redlands Planning Scheme Policy 9 – Infrastructure Works.	
22. Remove any redundant sewerage connections within the site or servicing the development and provide documentary evidence to Council or its delegate that this has occurred.	Prior to Council approval of the Survey Plan.
<u>Excavation and Fill</u>	
23. Apply to Council and obtain Operational Works approval for earthworks associated with the reconfiguration. Design and construct all retaining structures in accordance with Australian Standard 4678-2002 Earth-retaining Structures, in particular the minimum 60 year design life requirements.	As part of the application for Operational Works.
<u>Survey Control Information</u>	
24. Submit Survey Plan(s) that include connections to at least two separate corners from two RCC control marks with a valid Department of Natural Resources and Mines Order or RCC Accuracy. These must be shown on the face of the Survey Plan(s) within the Reference Mark or Permanent Survey Mark tables. List the mark number and coordinate in the cover letter.	As part of the request for compliance assessment of the Survey Plan.
25. Survey and present all asset infrastructure in accordance with the Redlands Planning Scheme Part 11 Policy 9 – Infrastructure Works. The horizontal datum for all work must be Redland City Council Coordinates (RCC) and the vertical datum must be Australian Height Datum (AHD).	As part of the request for compliance assessment of the Survey Plan.
26. Supply a Permanent Survey Mark (PSM) Sketch with the Survey Plan for any new PSMs placed. Include the following on the PSM Sketch: <ul style="list-style-type: none"> • the mark's AHD Reduced Level; • the datum origin mark number; and • the datum RL adopted. <p>Comply with the requirements of the <i>Survey and Mapping Infrastructure Act 2003</i>.</p>	As part of the request for compliance assessment of the Survey Plan.
<u>Environmental Management</u>	
27. Where koala habitat trees are removed from the site or road reserve as a result of the development, counterbalance the significant residual impact at the rate calculated under the Environmental Offsets Act 2014	Prior to requesting an inspection for on-maintenance of the development.
28. The replanting must be carried out within the Whitby Place road reserve and be in area that is sufficient in size to accommodate the trees when they reach a non-juvenile	As part of any application for

stage.	Operational Works.
29. If full or partial replanting is not possible, pay the relevant balance as a financial contribution in accordance with the Queensland Government Environmental Offsets Calculator on the state government website, or through the relevant calculation mechanism that applies at the time plan sealing is required.	Prior to requesting plan sealing for the development.
<u>Landscaping Works</u>	
30. Turf all areas of disturbance within the road verge with turf cut from a weed free source containing no viable weed seed.	Prior to Council approval of the Survey Plan.
31. Submit a Landscape Plan, prepared in accordance with the Redlands Planning Scheme Policy 9 – Infrastructure Works Chapters 2, 10 and 11, to Council for Operational Works approval. Include the following items in addition to the requirements of the Policy: a) Designs that are generally in accordance with the approved landscape concept plans. b) Details of street tree planting in accordance with the Landscape Code with species selected from Schedule 9 of the Redlands Planning Scheme, unless otherwise approved as part of the Operational Works approval.	As part of the application for Operational Works.
32. Obtain approval from Council for a maintenance plan for the entire landscaping component of the development.	Prior to Council approval of the Survey Plan.
<u>Air Quality Requirements</u>	
33. Provide a Temporary Landscape Buffer in accordance with the approved ROL Plan – Stage 1, that achieves the following: <ul style="list-style-type: none">• The buffer is to be planted with a range of fast-growing and hardy vegetation of varying heights and have a minimum height of 3 metres at maturity.• The buffer is to have a maximum porosity of 50% throughout.• The buffer is to be a minimum of 20 metres in width throughout.	Prior to Sealing of the Survey Plan.
34. Inform each prospective purchaser of the lots within Stage 1 that odour from the poultry farm may be detectable from time to time.	Prior to the first sale of each lot.
<u>Dust Control</u>	
35. Implement dust control measures at each phase of site development and operation in accordance with IECA (2008) Best Practice Erosion and Sediment Control.	During any site works and

	construction phase.
<u>Relevant Period</u>	
36. This development permit for Reconfiguring a Lot will remain current for a period of four (4) years starting the day the approval takes effect, as per sections 340 the Sustainable Planning Act 2009.	

Stage 2 – Preliminary Approval

The following conditions are required to be met prior to the issue of a Development Permit:

<u>ASSESSMENT MANAGER CONDITIONS</u>	<u>TIMING</u>
1. Demonstrate that poultry farm use has been abandoned through either: <ul style="list-style-type: none"> a) a statutory declaration that the poultry farm use located on Lot 3 on RP220126 has been abandoned and will not, either now or in any future time, carry on or use any part of the poultry farm for the business of a poultry farm, or any other type of similar use or activity including the business or operations of poultry, chicken or egg farming, nor permit or allow anyone else to do so; or b) photographic or documentary evidence to demonstrate that buildings associated with the poultry farm use have been removed from the site. 	As part of the application for Development Permit for Stage 2.
2. Provide written evidence that the Environmental Authority registered with the Department of Agriculture and Fisheries has been surrendered for the poultry farm located on Lot 3 on RP220126.	As part of the application for Development Permit for Stage 2.
3. Ensure that the road layout is generally in accordance with ROL Plan – Stage Two, Sheet No. 1114076_01 Rev E, prepared by Place Design Group and dated 13/07/2015, ensuring that there is no vehicular access available to the lot directly to the west of the subject site.	As part of the application for Development Permit for Stage 2.
4. Comply with the natural hazards, risk and resilience - potential bushfire impact buffer requirement of State Planning Policy July 2014.	As part of the application for Development Permit for Stage 2.
<u>Relevant Period</u>	
5. This preliminary approval for Reconfiguring a Lot will remain current for a period of ten (10) years starting the day the approval takes effect, as per sections 340 the Sustainable Planning Act 2009.	

ADDITIONAL APPROVALS

The following further Development Permits and/or Compliance Permits are necessary to allow the development to be carried out.

- Development Permit for Reconfiguring a Lot for Stage 2.
- Operational Works approval is required for the following works as detailed in the conditions of this approval:
 - Stormwater Management
 - Reticulated sewerage and reticulated water
 - Earthworks
 - Electrical reticulation
 - Access and Roadworks
 - Landscaping
- Building works – demolition:
 - Provide evidence to Council that a Demolition Permit has been issued for structures that are required to be removed and/or demolished from the site in association with this development. Referral Agency Assessment through Redland City Council is required to undertake the removal works.

Further approvals, other than a Development Permit or Compliance Permit, are also required for your development. This includes, but is not limited to, the following:

- Road Opening Permit – for any works proposed within an existing road reserve.

ASSESSMENT MANAGER ADVICE

- **Infrastructure Charges**
Infrastructure charges apply to the development in accordance with the State Planning Regulatory Provisions (adopted charges) levied by way of an Infrastructure Charges Notice. The infrastructure charges are contained in the attached Redland City Council Infrastructure Charges Notice.

- **Live Connections**
Redland Water is responsible for all live water and wastewater connections. Contact *must* be made with Redland Water to arrange live works associated with the development.

Further information can be obtained from Redland Water on 1300 015 561.

- **Coastal Processes and Sea Level Rise**
Please be aware that development approvals issued by Redland City Council are based upon current lawful planning provisions which do not necessarily respond immediately to new and developing information on coastal processes and sea level rise. Independent advice about this issue should be sought.

- **Hours of Construction**
Please be aware that you are required to comply with the *Environmental Protection Act* in regards to noise standards and hours of construction.

- **Performance Bonding**
Security bonds may be required in accordance with the Redlands Planning Scheme Policy 3 Chapter 4 – Security Bonding. Bond amounts are determined as part of an Operational Works approvals and will be required to be paid prior to the pre-start meeting or the development works commencing, whichever is the sooner.

- **Survey and As-constructed Information**
Upon request, the following information can be supplied by Council to assist survey and engineering consultants to meet the survey requirements:
 - a) A map detailing coordinated and/or levelled PSMs adjacent to the site.
 - b) A listing of Council (RCC) coordinates for some adjacent coordinated PSMs.
 - c) An extract from Department of Natural Resources and Mines SCDM database for each PSM.
 - d) Permanent Survey Mark sketch plan copies.

This information can be supplied without charge once Council received a signed declaration from the consultant agreeing to Council's terms and conditions in relation to the use of the supplied information.

Where specific areas within a lot are being set aside for a special purpose, such as building sites or environmental areas, these areas should be defined by covenants. Covenants are registered against the title as per Division 4A of the *Land Title Act 1994*.

-
- **Services Installation**
It is recommended that where the installation of services and infrastructure will impact on the location of existing vegetation identified for retention, an experienced and qualified arborist that is a member of the Australian Arborist Association or equivalent association, be commissioned to provide impact reports and on site supervision for these works.

-
- **Fire Ants**
Areas within Redland City have been identified as having an infestation of the Red Imported Fire Ant (RIFA). It is recommended that you seek advice from the Department of Agriculture, Fisheries and Forestry (DAFF) RIFA Movement Controls in regards to the movement of extracted or waste soil, retaining soil, turf, pot plants, plant material, baled hay/straw, mulch or green waste/fuel into, within and/or out of the City from a property inside a restricted area. Further information can be obtained from the DAFF website www.daff.qld.gov.au

-
- **Cultural Heritage**
Should any aboriginal, archaeological or historic sites, items or places be identified, located or exposed during the course or construction or operation of the development, the *Aboriginal and Cultural Heritage Act 2003* requires all activities to cease. For indigenous cultural heritage, contact the Department of Environment and Heritage Protection.

-
- **Fauna Protection**
It is recommended an accurate inspection of all potential wildlife habitats be undertaken prior to removal of any vegetation on site. Wildlife habitat includes trees (canopies and lower trunk) whether living or dead, other living vegetation, piles of discarded vegetation, boulders, disturbed ground surfaces, etc. It is recommended that you seek advice from the Queensland Parks and Wildlife Service if evidence of wildlife is found.
-

- **Environment Protection and Biodiversity Conservation Act**
Under the Commonwealth Government's *Environment Protection and Biodiversity Conservation Act* (the EPBC Act), a person must not take an action that is likely to have a significant impact on a matter of national environmental significance without Commonwealth approval. Please be aware that the listing of the Koala as vulnerable under this Act may affect your proposal. Penalties for taking such an action without approval are significant. If you think your proposal may have a significant impact on a matter of national environmental significance, or if you are unsure, please contact Environment Australia on 1800 803 772. Further information is available from Environment Australia's website at www.ea.gov.au/epbc

Please note that Commonwealth approval under the EPBC Act is independent of, and will not affect, your application to Council.

Attachment 1 – MC005399 Layout Plan



Indicative Location of
Subject Lot

PROJECT

35 - 41 Wrightson Road

CLIENT

Loncor Properties Pty Ltd

KEY PLAN / NOTES

- Subject site
- - - - - Staging boundary
- - - - - 2.5 OU Line
- 14m x 32m allotments
- 16m x 32m allotments
- 24.3m x 32m allotments
- 3m wide Landscape Buffer
- Easement A
- Detention Basin
- 20m Vegetation Amenity Buffer

NOT FOR CONSTRUCTION

ISSUE	CODE	ISSUE DESCRIPTION	BY	CHK	DATE
A	ROL	PRELIMINARY ROL PLAN	EM	LM	05.03.2015
B	ROL	PRELIMINARY ROL PLAN	EM	HC	01.07.2015
C	ROL	PRELIMINARY ROL PLAN	EM	HC	13.07.2015

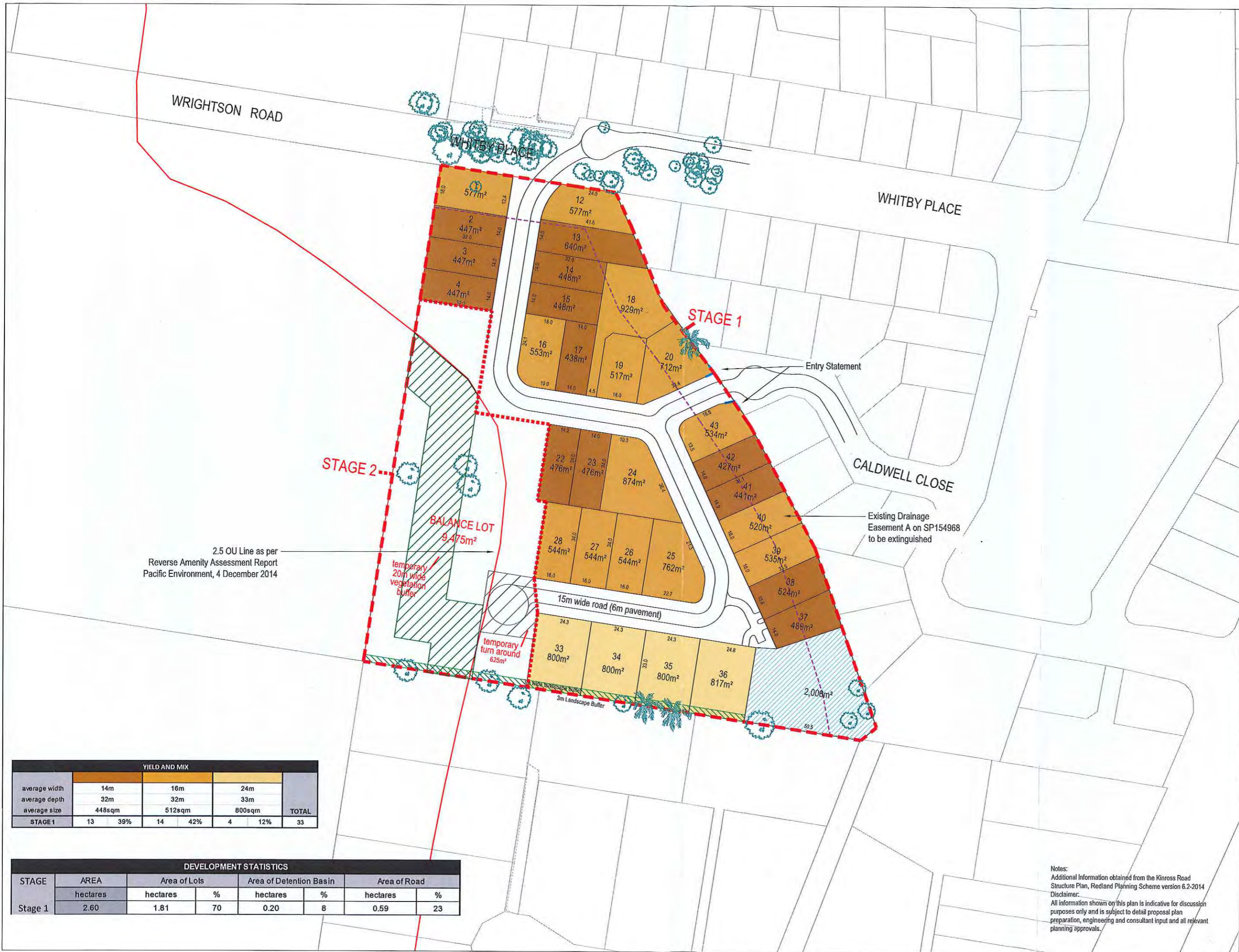
PRE - Preliminary | CA - Council Approval | T - Tender | COH - Construction
DRAWING TITLE

ROL PLAN - STAGE ONE

DESIGN : EM
DOCUMENT : LM
PROJECT : 1114076
SCALE : 1:1500@A3



SHEET NUMBER : 1114076_01
REVISION : E



2.5 OU Line as per Reverse Amenity Assessment Report Pacific Environment, 4 December 2014

temporary 20m wide vegetation buffer

temporary turn around 625m²

Existing Drainage Easement A on SP154968 to be extinguished

YIELD AND MIX						
	14m	16m	24m	TOTAL		
average width	14m	16m	24m			
average depth	32m	32m	33m			
average size	448sqm	512sqm	800sqm			
STAGE 1	13	39%	14	42%	4	12%
						33

DEVELOPMENT STATISTICS							
STAGE	Area of Lots			Area of Detention Basin		Area of Road	
	hectares	hectares	%	hectares	%	hectares	%
Stage 1	2.60	1.81	70	0.20	8	0.59	23

Notes:
Additional Information obtained from the Kinross Road Structure Plan, Redland Planning Scheme version 6.2-2014
Disclaimer:
All information shown on this plan is indicative for discussion purposes only and is subject to detail proposal plan preparation, engineering and consultant input and all relevant planning approvals.

PROJECT

35 - 41 Wrightson Road

CLIENT

Loncor Properties Pty Ltd

KEY PLAN / NOTES

- Subject site
- - - - - Staging boundary
- 14m x 32m allotments
- 16m x 32m allotments
- 24.3m x 32m allotments
- 3m wide Landscape Buffer
- Easement A
- Detention Basin

NOT FOR CONSTRUCTION

ISSUE CODE	ISSUE DESCRIPTION	BY	CHK	DATE
A	ROL PRELIMINARY ROL PLAN	EM	LM	05.03.2015
B	ROL PRELIMINARY ROL PLAN	EM	HC	01.07.2015
C	ROL PRELIMINARY ROL PLAN	EM	HC	13.07.2015

DRAWING TITLE

ROL PLAN - STAGE TWO

DESIGN : EM
DOCUMENT : LM
PROJECT : 1114076
SCALE : 1:1500@A3



SHEET NUMBER : 1114076_01
REVISION : E



YIELD AND MIX							
average width average depth average size	14m		16m		24m		TOTAL
	32m		32m		33m		
	448sqm		512sqm		800sqm		
STAGE 1	13	39%	14	42%	4	12%	33
STAGE 2	2	20%	7	70%	3	30%	10
TOTAL	15	35%	21	49%	7	16%	43

DEVELOPMENT STATISTICS							
STAGE	AREA	Area of Lots		Area of Detention Basin		Area of Road	
	hectares	hectares	%	hectares	%	hectares	%
Stage 1	2.60	1.81	70	0.20	8	0.59	23
Stage 2	0.95	0.56	59	0.00	0	0.39	41
TOTAL	3.55	2.37	67	0.20	6	0.98	28

Notes:
Additional Information obtained from the Kinross Road Structure Plan, Redland Planning Scheme version 6.2-2014
Disclaimer:
All information shown on this plan is indicative for discussion purposes only and is subject to detail proposal plan preparation, engineering and consultant input and all relevant planning approvals.

11.2.6 DRAFT PLANNING BILLS

Objective Reference: A285678
Reports and Attachments (Archives)

Authorising Officer:



Louise Rusan
General Manager Community and Customer Services

Responsible Officer:

David Jeanes
Group Manager City Planning and Assessment

Report Author:

Callan Langlands
Strategic Planner City Planning and Assessment

PURPOSE

The purpose of this report is to:

1. Provide an overview of the proposed major changes to the Queensland planning system to be introduced to Parliament in the form of the draft *Planning Bill* and draft *Planning and Environment Court Bill*;
2. Identify issues and concerns in regards to the proposed Bills that can be incorporated into a single submission to the Department of Infrastructure, Local Government and Planning (DILGP) for consideration and review.

BACKGROUND

Since 2012, the Queensland State Government has initiated a program to reform the state planning system. The reform has delivered a number of key initiatives since this time, including the State Assessment Referral Agency (SARA) and single State Planning Policy (SPP). A further element of the reform agenda initiated under the former Newman Government was the reshaping of Queensland's principle planning legislation, the *Sustainable Planning Act (SPA) 2009*.

In August 2014, the Queensland Government released a draft of the Planning and Development Bill and the Planning and Environment Court Bill, to replace SPA, proposing significant changes to the State's statutory planning system. Community feedback on the draft bills was sought prior to their introduction to Parliament, to which Redland City Council made a submission.

An amended Planning and Development Bill and Planning and Environment Court Bill were subsequently introduced to parliament in November 2014. The Bills were referred to the State Development, Infrastructure and Industry Committee for consideration, however lapsed upon dissolution of the Legislative Assembly on 6 January 2015.

The State elections in January 2015 resulted in a change in government, with the new Labour Government sworn in on 14 February 2015. Despite the change in government, the reform of the planning regime has remained a key focus, with the

Planning Reform Directions Paper released in May 2015 outlining a commitment to delivering a new Planning Act.

On 10 September 2015, the Queensland Government released a draft of the Planning Bill and Planning and Environment Court Bill (together with the draft Planning (Consequential) and Other Legislation Amendment Bill), both intended to replace the SPA. While the Draft Planning Bills retain key elements of the previous Planning and Development Bill, a number of significant changes are proposed. In particular, there is a much greater focus on promoting community engagement and public participation in both plan making and development assessment and ensuring that the planning system delivers confidence and certainty in relation to planning outcomes.

The Queensland Government has invited community feedback on the draft bills prior to their introduction to Parliament, with both draft bills currently on public consultation through until 23 October 2015. The primary purpose of this report is to inform Council on the key elements of the draft Bills and identify potential issues and concerns which can be incorporated into a written submission to DILGP.

A Councillor workshop was held on 6 October 2015 for the purpose of providing Council with an overview of the changes as detailed in the draft planning bills, and informing the development of this report and proposed draft submission.

CHANGES TO THE QUEENSLAND PLANNING SYSTEM

Structure

The draft planning bills retain the fundamental structure and key elements of the current legislative framework. This is demonstrated through the retention of the development assessment system, state and local planning instruments, a hierarchy of instruments and dispute resolution processes.

However, since commencing the planning reform process under the former Newman Government, there has been an emphasis on simplifying the planning legislative framework, a principle that has been carried forward under the current Palaszczuk Government. The draft Planning Bill 2015 has attempted to achieve this by consolidating and rearranging many of the current provisions to remove duplication and ensure the structure of the legislation is more easily understood and user friendly.

Importantly, unlike the prescriptive and detailed nature of SPA, the proposed Planning Act will operate as a 'skeleton act', providing an overarching framework to be supplemented by supporting regulations and guidelines that will provide for much of the process and procedural provisions currently found in the existing Act. This has resulted in various supporting legislative instruments being identified to supplement the draft Planning Bills. These include:

- a. Draft Planning Regulation 2016
- b. Draft Development Assessment Rules
- c. Draft Minister's Rules and Guidelines for Making or Amending Local Planning Instruments
- d. Draft Infrastructure Designation: Statutory Guideline for Local Government

The Department has released illustrative drafts of each of these instruments to provide an indication of how they are to operate under the new system.

Consideration of each of these instruments has been made for the purpose of analysing the bills and informing the draft submission, however the Department has indicated it will consult separately on these instruments once the Bills have been introduced into parliament.

In all, the revised structure as presented in the Planning Bills is generally supported and seen to be a logical move forward in delivering a simpler, user friendly legislative framework.

Purpose of the Act

The purpose of the Act is to facilitate ecological sustainable development, and includes references to impacts of climate change, specifically “potential adverse impacts on climate change” are taken into account for development, and sought to be addressed through sustainable development (like sustainable settlement patterns and sustainable urban design). This represents a departure from the purpose of the previously touted Planning and Development Bill, however builds upon the purpose of the SPA.

The Department has sought specific feedback in terms of the options for advancing the purpose of the Act, providing a specific example as a basis to illustrate how the provisions could be shaped. Again, it is recognised that the example provided is essentially a re-wording of the current provisions under SPA. It is considered that these existing provisions are appropriate for advancing the purpose of the Act and should be retained as proposed.

Planning Instruments

The Planning Bill includes a single chapter describing the planning instruments (state, regional and local) within the framework and how they relate to each other. It covers superseded planning schemes and compensation as well as infrastructure designations and represents the consolidation of Chapters 2, 3 and 5 of SPA. Key differences in the new Bill compared to SPA as it relates to the planning framework include:

- *Simplified State Planning Instruments* – Only two state planning instruments are proposed to be retained, those being the Single State Planning Policy and Regional Plans. Consultation and community engagement arrangements, such as notification requirements and Regional Planning Committees, are carried forward in the new arrangements.

The reduction to two state planning instruments sees the removal of State Planning Regulatory Provisions and Standard Planning Scheme Provisions [also known as the Queensland Planning Provisions (QPP)]. Matters currently addressed through these instruments that need to be regulated and mandated will be done so as part of the Planning Regulations, with the balance of matters to be provided in guidance material. It is noted that at this point in time, two critical State Planning Regulatory Provisions (SPRP) impacting Redland City, the SEQ Koala SPRP and the SEQ Regional Plan SPRP, are yet to be transitioned into the regulation. Further review of the regulations will be undertaken once the Regulations and Guidance Material are finalised and released for consultation at a future date.

In simplifying state planning instruments, it is intended to increase local government flexibility, particularly within the plan making process. For example,

the level of detail and standardisation required under QPP was seen to reduce flexibility and constrain innovation. As part of the proposed changes, only those critical matters utilised for the purpose of maintaining consistency of planning instruments across the state will be retained in the regulations (i.e. standard definitions), with a more flexible approach to the content advocated through guidelines. This change is intended to allow Councils greater flexibility in the drafting of planning schemes to better reflect and respond to locally specific matters.

- *Flexible approach to plan-making* – The Bill adopts a more flexible approach to plan making, with each step in the process devolved to a new instrument that will establish the principles (rather than process) upon which a scheme should be prepared. The aim is to move away from a focus on prescribed processes to more clearly articulated State expectations and interests.
- *Life of Temporary Local Planning Instruments (TLPI)* – TLPIs will have effect for up to two years from the day they are to have effect rather than the timeframe of one year as provided for under SPA 2009. Additionally, TLPIs will be able to be amended as opposed to the current practice of having to prepare a new planning instrument.
- *Infrastructure Designation* – Currently reflected under the provisions of ‘Community Infrastructure Designation’ in SPA, Infrastructure Designation supports the delivery of key local and state infrastructure. Designations of land may be made by the Planning Minister, or by a local government. The current ability for any Minister to designate land is not continued.

The designator of land (being the Planning Minister or Local Government) must be satisfied that:

- the infrastructure will satisfy statutory requirements, or budgetary commitments, for the supply of infrastructure; or
- there is or will be a planning need for the efficient and timely supply of infrastructure.

Development in relation to infrastructure identified in a designation is accepted development, except to the extent the development is building work that is building assessment work under the Building Act. Unlike the position under SPA, all development, except building work, under a designation is accepted development, and the designation provides exemptions beyond the planning scheme.

- *Compensation* - Under SPA, a land owner is not entitled to compensation for planning scheme changes that negatively affect the value of their land, where the change is intended to prevent development that would otherwise cause a “significant risk to person or property from natural processes (including flooding, land slippage or erosion) and the risk could not have been significantly reduced by conditions attached to a development approval”. Under the compensation provisions found in the Planning Bill 2015, this test is revised to apply to any change that simply reduces the risk (rather than ‘significantly reduces’). In making the change, a local government authority must prepare a report in accordance with Ministerial rules that assess feasible alternatives for reducing the risk, including consideration of imposing lawful development conditions on approvals. This change to be introduced through the new planning bills are seen to create

greater certainty for local governments in making changes, without fear of attracting claims for compensation.

Importantly, the draft Bill also specifies that a local government does not incur a liability for anything a local government does or does not do in complying with a direction of the Minister or action taken by the Minister for existing, proposed or proposed amendment of a local planning instrument.

Development Assessment

As previously noted, many of the key underpinning features of the current development assessment system remain in place, including:

- State and local instruments set assessment criteria.
- Integrated assessment processes between the assessment manager and state agencies [State Assessment and Referral Agency (SARA)].
- Vertical integration of state, regional and local planning frameworks.
- Development categorised into risk based streams.
- Preliminary approvals and development permits.
- Public notification and third party appeal rights for some Development Applications.
- Established timeframes/currency periods for development approvals.
- Negotiated decision notices.

There are however important changes to the development assessment system that alter the Queensland development approval process. These changes are summarised as follows:

- *Changed categories of assessment/development* – The Bill proposes to refine the current five categories of development (exempt, self-assessable, compliance, assessable, and prohibited), with three new categories of assessment to be introduced, namely *accepted*, *assessable* and *prohibited*. Whilst terminology is yet to be settled (an issue open to consideration as part of the consultation process), assessable development will be split into two categories, being *standard/code* and *merit/impact*.

Accepted development reflects the current category of ‘exempt’ and ‘self-assessable’, being a simple means of determining when a development approval is required. The principle that all development is exempt (accepted) unless otherwise specified remains a fundamental tenet of the framework.

Standard/Code Assessment reflects the current category of ‘code assessment’ and represents a bounded assessment whereby development is only to be assessed against identified benchmarks (i.e. codes and standards etc.) and having regard to matters prescribed by the Regulations. This is intended to be a quicker, less complicated and more predictable assessment than the current Code Assessment process, removing the opportunity for an applicant to argue grounds outside of the matters addressed by the planning scheme such as planning need.

At this point in time, the Bills present two options for consideration in terms of how standard/code applications will be determined under the new Act, those being:

Option 1 - The assessment manager must decide and approve an application to the extent it complies with the benchmarks for the development and may impose development conditions on any approval. To the extent the development does not comply with the assessment benchmarks, the assessment manager can decide to refuse the application only if compliance cannot be achieved by imposing development conditions.

Option 2 – Assess the development against the benchmarks and decide to approve all or part of the application; decide to approve all or part of the application, but impose development conditions; or refuse the application.

Merit Assessment generally reflects the current category of 'impact' assessment. The merit assessment stream is a broader assessment against the benchmarks and prescribed matters as well as consideration of discretionary matters, including:

- A planning need,
- The current relevance of the assessment benchmarks in the light of changed circumstances,
- Whether assessment benchmarks or other prescribed matters were based on material errors.

It is intended that merit assessment would apply to more complex projects that provide for a stronger departure from development anticipated under the planning scheme. Similar to SPA, merit/impact assessments will all require public notification and may be subject to third party appeals. Submitter appeal rights would be available only to those who made a properly made submission during the notification period for development requiring merit/impact assessment (public notification).

Prohibited Development will continue to be limited to development identified in a state instrument. A local planning instrument may state that development is prohibited only if a state regulation allows it to do so.

- *Development Assessment Process* – The current development assessment process has a number of static stages, whereby each stage must be completed before the next stage can be undertaken (i.e. application; information and referral; public notification; decision).

The proposed development assessment process will include 2 stages, being an assessment stage and a decision stage. The application, information and referral, and public notification stages under the current development assessment process will become steps under the assessment stage. The steps within the assessment stage should only be undertaken where necessary for a development application, and some of the steps may occur earlier or at the same time as each other.

For example, an applicant will be able to give a copy of the development application and required fee to each referral agency when they give the development application to the Council. Under the current development assessment process, the applicant must wait until the Council gives them notice accepting the development application (called an acknowledgment notice) before

they can give a copy of the application and the required fee to each referral agency. This allows each referral agency to commence their assessment of the development application against their jurisdictional responsibilities earlier in the development assessment process.

- *Relocation of Development Assessment rules* – Much of the detailed processes governing the Development Assessment system currently included in SPA will be removed and incorporated in the accompanying Regulations and associated guidelines.
- *Exemption Certificates* – Proposed new provisions are available to Council to issue exemption certificates for assessable development in certain circumstances:
 - Development that is considered to result in minor/inconsequential effects;
 - When circumstances warranting assessable development change; or
 - When development has been categorised in error.

In these instances, the development remains assessable, but no approval is needed. The certificate has effect for a period of 2 years or until withdrawn.

- *Changes to development approvals* – In accordance with SPA, changes to a development approval may be permitted where the proposed change is minor in nature, subject to subsequent approval by the assessment manager. It is proposed to carry forward these existing provisions for minor change applications, in addition to expanding change applications to include changes to a development approval not considered to be minor in nature.
- Minor change applications will continue to be assessed in a similar manner provided for under SPA, while major change applications will be administered using development assessment rules as if the application for original development were made, including the proposed change. Assessment and decision rules however will only apply to the element of change. Public notification does not apply if the change is not a minor change only because it causes a referral to a referral agency, or referral to extra referral agencies.
- *Amendments to currency periods* – Where a development permit does not specify the currency period for a development approval, the Bill introduces new standard currency periods for a Material Change of Use (from 4 years to 6) and Reconfiguration of a Lot (from 2 years to 4) application. It is proposed however to remove the related approval provision currently included under SPA whereby the currency period may be restarted from the point at which an additional approval associated with the development is obtained.
- *Alternative assessment manager* – The assessment manager for development will be identified in the regulations. For development categorised as assessable development, if a local government or chief executive is identified as the assessment manager, these entities may keep a list of other entities who may, at the discretion of Council, be appointed as assessment managers for the application.
- *Ministerial Powers and Call-in* - Unlike the lapsed Planning and Development Bill 2014, the notification and consultation process before the call in power is

exercised is continued by the draft Planning Bill. Timeframes for call ins are deferred to the regulations.

At the time of giving the call in notice, the notice must state the reasons for the call in, the State interest, whether the Minister intends to assess and decide or reassess and re-decide the application and (except for a cancellation application) the point in the development assessment process from which the process must restart.

In deciding the application, the Minister may consider anything the Minister considers relevant. The Minister is not bound by any referral agency response.

The Minister may call in a development application, change representations, change application, extension application or a cancellation application.

- *Referral Agencies* - The Planning Bill removes the distinction between advice and concurrence agencies. An applicant is required to give a copy of the development application to a referral agency where a referral agency is prescribed by regulation, or an agency decided by the Minister to be a referral agency.

The referral agency response powers are expressed differently to those under SPA, and include that the referral agency can decide to direct the assessment manager to:

- give any development approval subject to stated conditions;
- give development approval for only a stated part of the development;
- give only a preliminary approval;
- require a stated currency period for any development approval given;
- refuse the application for stated reasons.

Decisions of the assessment manager must comply with referral agency responses (other than to the extent a referral agency's response provides advice), including that conditions must be imposed exactly as stated in the response.

Infrastructure

The infrastructure charging provisions in the Planning Bill largely replicate the infrastructure charging provisions from SPA that commenced on 4 July 2014, with requisite changes to terminology, and in recognition of the discontinuance of SPRPs.

The current Adopted Infrastructure Charges SPRP is to be replaced by regulation which will prescribe charges.

On commencement, the SPA will continue to apply to:

- charges notice given before 4 July 2014, unless the notice relates to a development approval that is changed or extended; and
- charges payable before 4 July 2014.

Infrastructure agreements entered into before commencement will also continue to have effect, even if the terms and conditions could not be imposed under the Planning Act.

Offences and Enforcement

Offences included in the draft Bills largely align to that included under SPA, though some tweaks have been made to the system. Notably, the maximum penalties for offences have been increased significantly, increasing from an upper limit of 1,665 penalty units under SPA to 4,500 penalty units under the Planning Bill.

Additionally, the draft Planning Bill allows the chief executive to appoint “inspectors” who may be officers of the department, or other persons prescribed by regulation. Inspectors have powers under the draft Planning Bill, including to enter into a place with consent or with a warrant for certain purposes.

Planning and Environment Court

A significant change between SPA and the draft Bills is the removal of the Planning and Environment Court's rules from the planning legislation and the creation of a standalone piece of legislation, being the draft Planning and Environment Court Bill. While the Planning and Environment Court's powers and jurisdiction are similar to those as provided for by the SPA, notable changes include:

- *Development Tribunal* – The Development Tribunal will replace the current Building and Development Dispute Resolution Committee. This aims to further facilitate the use of alternate dispute resolution processes before a matter progresses to the Planning and Environment Court.
- *Non-Appealable Decision* – The concept of a non-appealable decision is introduced in the Draft Bills. As specified under the Planning and Environment Court Bill, a decision or order made by the Court is non-appealable other than in limited circumstances. Further, a decision of a Minister under the Planning Bill is “not appealable”, meaning that the decision:
 - is final and conclusive; and
 - may not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, in any court.

A person who is aggrieved by a decision, may, however, apply to the Supreme Court for a review of the decision on the ground of jurisdictional error.

- *Costs* – There has been a restriction in the discretionary factors available when evaluating costs. This demonstrates a legislative intent to return to the principle that each party bears its own costs. However, a party will still be liable for costs where the proceedings have been initiated for an improper purpose or considered “frivolous or vexatious” by the Courts. This reform is aimed at promoting the appeal rights of third parties, a response to the Government’s goal of increasing public participation and engagement.

Transitional Provisions

It is necessary to note that the transitional provisions reflected in the draft Bill are preliminary at this point in time and subject to further development as the draft Bill is refined, before being brought before Parliament. Generally, the proposed new legislation will seek to ensure that matters that were valid at the repeal of SPA will remain valid under the new legislation. Notwithstanding, specific transitional provisions of note include:

- *Development Applications* – Existing approvals previously issued under the Integrated Planning Act (IPA) and SPA will continue as approvals under the proposed new Act. Applications to change these existing approvals will be subject to the new Act arrangements.

Development applications not decided at the commencement of the new Act are to be decided under SPA as if the new Act had not yet commenced. Subsequent development approvals issued in this manner are taken to be approvals under the new Act.

- *Development assessment process* – Transitional provisions are included in the draft Bill relating to levels of assessment where utilising planning schemes prepared in accordance with IPA/SPA. These transitional provisions include:
 - Exempt and self-assessable development (where compliant) under an IPA/SPA planning scheme directly translates to Accepted Development.
 - Compliance and Code Assessment under an IPA/SPA planning scheme directly translates to Standard/Code Assessment.
 - Impact Assessment under an IPA/SPA planning scheme directly translates to Merit/Impact Assessment.
- *Planning Schemes* – Transitional provisions are yet to be finalised however DILGP have advised Council that all schemes will be deemed Planning Act schemes at commencement of the Act via transitional arrangements.

ISSUES

Overall, Council officers are generally supportive of the proposed changes to Queensland's planning system to be introduced as part of the draft Bills. In principle, these changes are seen as a positive step forward in progressing the State's statutory planning system, providing greater flexibility to Council in its plan making processes and ensuring appropriate public participation in the planning system.

However, a number of concerns and issues have been identified with the draft Bills. These issues as outlined below will inform the drafting of a submission to DILGP.

1. Retention of current terminology for levels of assessment

As noted above, the Bills as prepared do not settle on the terminology for categories of assessable development. Rather, the draft Planning Bill provides options for the future categories of assessment, being:

- *standard* or *code* assessable for the bounded assessment against prescribed benchmarks listed in a categorising instrument or regulation, and
- *merit* or *impact* assessable development for the higher level of assessment.

The Department has stated that they are open to further comment on the proposed names of the categories of assessment. At a recent Councillor workshop, it was expressed that a preference would be to retain the current terminology as detailed in SPA, that being Code and Impact for the two levels of assessment. It is considered that whilst there are changes to the process for levels of assessment, the fundamental concept remains, with the new structure largely a reflection of the existing categories of assessment.

Retaining levels of assessment terminology as currently expressed within planning schemes across the state would reduce confusion and aid in the transition of existing planning schemes from SPA to the new Planning Act in the future.

2. Support for alternate assessment manager provisions

Council is generally supportive of the ability for a local government to maintain a list of external entities who may be appointed to the role of assessment manager for certain development applications. However, this in principle support is on the understanding that the decision to appoint an external assessment manager is strictly at the discretion of the local government authority.

3. Deciding Standard/Code Development Applications

DILGP has specifically sought comment having regard to the two options presented for the standard/code decision rules, as detailed above in the preceding section to this report.

Councillors have expressed support for option 2 as presented in the draft planning bills. In effect under this option a development may only be approved where it wholly satisfies the prescribed assessment benchmarks or can be conditioned as such to do so. This bounded assessment process is considered to provide greater certainty to applicants and practitioners as well as the broader community in terms of development outcomes that can occur under a code/standard assessment.

4. Review the proposed definition of “use”

The definition of a “use” as proposed in the Planning Bill fundamentally expands the activities that may be carried out because secondary activities need not be necessarily associated with the primary use to be considered part of that use and as a result, lawful. While the flexibility of including broader activities as part of a use may be beneficial in certain circumstances, it is suggested that the regulation and enforcement of activities that were not contemplated as part of a development approval (although ancillary) may prove problematic for Councils and potentially undermine local communities’ understanding of the development process.

Rather, it is suggested that the existing SPA definition be retained, requiring an ancillary use to be both incidental to and necessarily associated with the use of the premises. In maintaining the current definition, this is seen to provide greater certainty for both the public and local governments when considering development applications.

5. Support for ongoing concerns raised by LGAQ regarding infrastructure reform

The infrastructure provisions included in the draft Planning Bill largely replicate the provisions from SPA that commenced on 4 July 2014, with requisite changes to terminology, and in recognition of the discontinuance of SPRPs. Council, principally through representations made by LGAQ, have remained vocal on a number of the infrastructure reform items that continue to remain of relevance moving forward under the draft planning bills, including:

- *Providing automatic indexation of maximum adopted infrastructure charges,*
- *Restoring the ability for a local government to set conditions relating to trunk infrastructure,*

- *Providing equitable offset or refund requirements to ensure financial sustainability of Council's,*
- *Removing the unnecessary red-tape application process of converting trunk infrastructure conditions,*
- *Improved Community Infrastructure Designation processes, including for local government*

Council continues to support LGAQ in its representations to the DILGP to have the above reform matters taken into further consideration as part of the review of submissions for the draft Planning Bills.

6. Opportunity to tighten and improve offences and enforcement provisions

It is acknowledged that the changes to offences and enforcement are minor in nature, and largely reflect the provisions provided under SPA. Notwithstanding, the following comments and suggested modifications are provided in relation to specific provisions under the draft Planning Bill for further consideration by DILGP.

6.1 s86 – Lapsing of approval for failing to complete development

This provision, though essentially similar to the current SPA provision, continues a problematic scenario where development that is not completed is also typically not unlawful either. As such there is no mechanism to have the unfinished development completed.

For example, a person commences construction of a house during the currency period but does not complete it before the lapse date. In the event that they perform no further works post the lapse date, (as often occurs on the Southern Morton Bay Islands) there is no development offence occurring. That is, the works prior to lapsing are undertaken lawfully under the development approval and if no further physical works are performed Council cannot pursue the owner for carrying out development without an effective development approval. In addition, as the development approval has lapsed, Council cannot look to have the works completed as a breach of development conditions.

Based on these considerations, it is suggested that a development offence be added either to this section or separately in the list of development offences, stating that it is an offence to not complete development, including fulfilling all applicable development conditions and compliance within a negotiated period following the lapse date for the development approval.

1.2 s161-163 Development Offences

The maximum penalty units have increased substantially from 1,665 to 4,500 penalty units. Whilst this is generally supported, there is concern this may be detrimental to effective compliance action if the increase in the maximum penalty translated to a significant increase in the amount of a Penalty Infringement Notice (PIN) for the offences under *State Penalty Enforcement Regulation 2014* (SPER).

It is prudent to ensure that the amount of a PIN is not disproportionate to most simple offences and not significantly more than that which a Magistrates Court would hand down for a similar offence. In circumstances where this is the case, Council's ability to utilise a PIN as an effective compliance tool is likely to be reduced, given the likelihood of it being contested in the Courts for being excessive.

Council's Compliance Officers are generally of the view that the current PIN amounts set under SPER for those offences detailed under s161-163 are generally sufficient and should not be significantly increased to reflect the change to the maximum penalty units under the draft Bills. More significant offences are to be prosecuted through the courts and a PIN should not be relied on in those circumstances.

1.3 s166 Enforcement Notices

The draft bill has changed the wording of the enforcement notice provision under SPA and subsequently appears to have potential drafting errors relating to issuing an enforcement notice to an owner of a property, where the owner did not commit the offence. In accordance with s166 of the draft Planning Bill, a person and an owner of premises may receive an enforcement notice. This appears to make it mandatory that to issue an enforcement notice to the owner of premises you must also issue it to the person who committed the offence.

This provision is deemed to be inappropriate for certain circumstances, such as for historical offences, where either the original person who committed the offence is unknown or where there has been a change in ownership of the premises. In this example, the regulatory authority would effectively be unable to issue an enforcement notice to remedy the original offence.

Further to the above, s.166(2) refers to an enforcement notice requiring only a person to remedy an offence. It is considered that it may be argued that the owner of premises has been separately identified in s166(1)(b) from a person (refer s.166(1)(a)) and therefore the provision to remedy the offence may not apply.

It is recommended these provisions be redrafted to provide for greater clarity regarding the issuing of enforcement notices, having regard to these areas of inconsistency. It is suggested that the current provisions relating to enforcement notices under SPA, namely s590, provides greater clarity regarding this issue and should be carried forward through to the new Act.

1.4 s170 Application in response to show cause or enforcement notice

Whilst it is acknowledged that it is the role of SPER to establish PINs rather than the principle planning legislation, it is noted that Council enforcement officers do not have the ability to issue a PIN under s170 of the draft planning Bill. Council officers have expressed it to be highly desirable that a PIN option exist for this offence to enable it to be used effectively with time lags associated with development applications for non-compliant development works.

Currently, it is recognised that this enforcement action is not used as the time associated with going to Court for this offence generally outweighs the length of time associated with an applicant delaying unnecessarily the progress of a development application.

7. Re-education program

Cultural change cannot simply be compelled by legislative reform. A perceived lack of understanding of performance based planning throughout Queensland has hampered the progress of a system that was envisaged to provide greater flexibility and innovation.

Performance based planning combines a clear articulation of performance outcomes with a measure of flexibility regarding how these outcomes will be achieved. Together with performance outcomes, acceptable outcomes are often included in planning instruments with an aim to demonstrate to developers one way the performance outcome can be achieved. However they do not represent the only way a performance outcome can be satisfied. Other alternative methods may be proposed by the developer to satisfy the performance outcome.

Whilst the purpose of including acceptable outcomes is to simply identify one way of achieving the performance outcomes of the codes, this has become a great source of angst and frustration within the community, who often operate under the false assumption that the acceptable outcome are a prescriptive criteria where failure to comply should result in a refusal.

To this end, it is seen as both appropriate and necessary to instigate a significant education campaign, aimed at better informing the wider community, not only of the assessment categories and processes under the draft Bills, but the performance based planning system both the current Act and draft Bill are built upon.

STRATEGIC IMPLICATIONS

Legislative Requirements

The draft bills will result in the repeal of the *Sustainable Planning Act 2009* and associated Regulations and Guidelines, introducing new Acts, Regulations and guidelines including the proposed Planning Act and Planning and Environment Court Act. Drafts of both Planning Bills are currently open for public comment, with the consultation period ending 23 October 2015. An opportunity is now available for Council to make a submission to the Department of Infrastructure, Local Government and Planning regarding the draft Bills. There is no legislative requirement for Council to make a submission.

Risk Management

The risk of not making a submission to the Department of Infrastructure, Local Government and Planning regarding the bills is that Council's concerns and opinions in relation to the proposed changes to the QLD statutory planning system will not be considered.

Financial

The proposed changes to the planning system are likely to have potentially significant financial implications for Council. Specifically, it is noted that changes to the planning system will result in practical, process and administrative changes within Council to ensure compliance, including:

- Staff training to ensure that appropriate staff are familiar with the changes;
- Administrative changes to Council's development application process;
- Staffing resources required to amend Council templates and electronic administration systems.

In addition, Council will need to consider whether to re-draft the Draft City Plan into a format consistent with the new Act or undertake changes progressively through a regular program of amendments.

There are no financial implications associated with making a submission to DILGP on the draft Bills.

People

The staff resourcing required to make a submission to DILGP has been drawn from the Strategic Planning Unit of the City Planning and Assessment Group.

Environmental

No strategic environmental implications are specifically identified at this time.

Social

The proposed changes to be introduced by the draft Bills will see an overall simplification to the QLD statutory planning system. The move towards a simplified, more user friendly planning act will, to a large extent, remove redundant or cumbersome planning processes, reducing red tape and associated costs to the community.

In addition, the proposed Bills continue to ensure community participation in the Queensland planning system. However, to ensure the effectiveness of the new system, as noted earlier in this report, it is essential that the State Government commit to a major education program to support the roll out of the new Act.

Alignment with Council's Policy and Plans

The proposed changes to the Queensland Planning system fall outside the scope of Council's policy and plans. Amendments to the planning scheme and Draft City Plan 2015 as advertised will be required to ensure that it reflects the changes to be introduced in the Planning Act once it commences.

CONSULTATION

The Queensland Government has invited community feedback on the draft bills prior to their introduction to Parliament, with both draft bills currently on public consultation through until 23 October 2015. This provides Council the opportunity to review the proposed changes to the Queensland statutory planning system and make a submission, should it so desire.

A Council workshop was held on 6 October 2015 for the purpose of providing Council with an overview of the changes as detailed in the draft planning bills, and informing the development of this report and proposed draft submission.

In addition, in reviewing the proposed legislation, the Strategic Planning Unit has consulted with other areas of Council that operate within the planning system, seeking their input and gauging opinion on the proposed changes. Council Officers are generally supportive of the proposed changes to simplify the State's primary planning legislation as represented in the draft Planning Bills. Notwithstanding, those matters of concern raised throughout the internal consultation with Council officers have been incorporated into the Issues section of this report.

OPTIONS

1. That Council resolves to:
 - a. Note the proposed changes to the Queensland Planning System to be introduced in the Draft Planning Bill and Planning and Environment Court Bill; and
 - b. Delegate authority to the Chief Executive Officer, under s.257(1)(b) of the *Local Government Act 2009* to make a submission on behalf of Council to the Department of Infrastructure, Local Government and Planning, addressing the matters as outlined in the Issues section of this report.

2. That Council resolves to:
 - a. Note the proposed changes to the Queensland Planning System to be introduced in the Draft Planning Bill and Planning and Environment Court Bill; and
 - b. Not make a submission to the Department of Infrastructure, Local Government and Planning, recognising Council's support for the proposed changes.

3. That Council resolves to:
 - a. Note the proposed changes to the Queensland Planning System to be introduced in the Draft Planning Bill and Planning and Environment Court Bill; and
 - b. Delegate authority to the CEO under s.257(1)(b) of the *Local Government Act 2009* to make a submission to the Department of Infrastructure, Local Government and Planning addressing additional matters raised by Council, not limited to those detailed in the Issues section to this report.

OFFICER'S RECOMMENDATION

That Council resolves to:

- 1. Note the proposed changes to the Queensland Planning System to be introduced in the Draft Planning Bill and Planning and Environment Court Bill; and**
- 2. Delegate authority to the Chief Executive Officer, under s.257(1)(b) of the *Local Government Act 2009* to make a submission on behalf of Council to the Department of Infrastructure, Local Government and Planning, addressing the matters as outlined in the Issues section of this report.**

12 MAYORAL MINUTE

In accordance with s.22 of POL-3127 *Council Meeting Standing Orders*, the Mayor may put to the meeting a written motion called a 'Mayoral Minute', on any matter. Such motion may be put to the meeting without being seconded, may be put at that stage in the meeting considered appropriate by the Mayor and once passed becomes a resolution of Council.

13 NOTICES OF MOTION TO REPEAL OR AMEND RESOLUTIONS

13.1 NOTICE OF MOTION TO AMEND COUNCIL RESOLUTION – CR BEARD

13.1.1 BEST PRACTICE FOR COMMUNITY PANELS AS REFERENCE, ADVISORY AND/OR REVIEW GROUPS

On 8 October 2015, in accordance with s.262 *Local Government Regulation 2012*, Cr Beard gave notice that he intends to move as follows:

At the General Meeting of 26 August 2015 (Item 14.4.1 *Best Practice for Community Panels as Reference, Advisory and/or Review Groups*) Council resolved to:

- 1. Ask the Chief Executive Officer to have a report prepared on best practices in local government around the world on the use and application of community panels as reference, advisory and/or review groups;**
- 2. Request that the report provides information on outcomes as reported by local governments which have had experience in this area, including the financial implications;**
- 3. Request that the report also provides guidance to Councillors on any relevant legislative and legal implications of establishing such panels or groups;**
- 4. Request that the report is to be brought back to Council for a workshop in November 2015 for guidance and direction prior to final report being considered by Council; and**
- 5. Approve up to \$10,000 to commission the report, noting that this will be included in the first budget review.**

Notice is hereby given that at the General Meeting scheduled for 21 October 2015, I intend to move as follows:

That Council amends its resolution of 26 August 2015 (Item 14.4.1 Best Practice for Community Panels as Reference, Advisory and/or Review Groups) as follows:

- 1. Replace clause 5 with the following wording: "5. Note that funding for the report will be formally requested through the first budget review."**

14 NOTICES OF MOTION**14.1 NOTICE OF MOTION – CR OGILVIE****14.1.1 REQUEST STATE GOVERNMENT TO ENACT LEGISLATIVE PROVISIONS REGARDING POLITICAL DONATIONS**

On 8 October 2015, in accordance with s.3(4) of POL-3127, *Council Meetings Standing Orders*, Cr Ogilvie gave notice that he intends to move as follows:

That Council resolves to write to the State Government and ask them to enact legislative provisions, similar to the *Election Funding, Expenditure and Disclosures Act 1981 (NSW)* ("the EFED Act"), which impose caps on political donations, prohibit property developers from making such donations, and restrict indirect campaign donations.

15 URGENT BUSINESS WITHOUT NOTICE

In accordance with s.26 of POL-3127 *Council Meeting Standing Orders*, a Councillor may bring forward an item of urgent business if the meeting resolves that the matter is urgent.

16 CLOSED SESSION**16.1 INFRASTRUCTURE & OPERATIONS****16.1.1 RESOLUTION OF COUNCIL TO CALL EXPRESSIONS OF INTEREST FOR WASTE TRANSFER STATION OPERATION CONTRACTS**

**Objective Reference: A280828
Reports and Attachments (Archives)**

Authorising Officer:


**Gary Soutar
General Manager Infrastructure and Operations**

Responsible Officer:

**Kevin Mcguire
Group Manager Water and Waste Operations**

Report Author:

**Leslie Foster
Senior Contracts Advisor**

EXECUTIVE SUMMARY

Council or Committee has a broad power under Section 275(1) of the *Local Government Regulation 2012* to close a meeting to the public where there are genuine reasons why the discussion on a matter should be kept confidential.

OFFICER'S RECOMMENDATION

That the meeting be closed to the public to discuss this matter pursuant to Section 275(1) of the *Local Government Regulation 2012*.

The reason that is applicable in this instance is as follows:

(e) contracts proposed to be made by it (Council)

17 MEETING CLOSURE
