

19.3 REVIEW OF STATE GOVERNMENT KOALA MAPPING AND PROPOSED TEMPORARY LOCAL PLANNING INSTRUMENT

Objective Reference:**Authorising Officer:** Louise Rusan, General Manager Community & Customer Services**Responsible Officer:** David Jeanes, Group Manager City Planning & Assessment**Report Author:** Jodi Poulsen, Principal Environmental Strategic Planner

- Attachments:**
1. **Map Showing the difference between the proposed Temporary Local Planning Instrument and Locally Refined Koala Habitat Areas v1.1** [↓](#)
 2. **Proposed Formal Submission to the Department of Environment and Science regarding the Locally Refined Koala Habitat Areas v1.1 map** [↓](#)

The Council is satisfied that, pursuant to Section 275(1) of the *Local Government Regulation 2012*, the information to be received, discussed or considered in relation to this agenda item is:

- (h) *other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.*

PURPOSE

To review and assess the area included within the State's koala habitat mapping, including the amended Locally Refined Koala Habitat Areas v1.1 (LRKHA v1.1) and the areas mapped in the proposed Temporary Local Planning Instrument (TLPI), and consider making a submission to the Department of Environment and Science (DES).

BACKGROUND

The new State Koala mapping and legislation framework is an outcome of the State Government's response to a 2016 report by Uniquist (University of Queensland) 'South East Queensland Koala Population Modelling Study'. This study identified a significant koala population decline, about 80% in the Koala Coast and 54% in the Pine Rivers area between 1996 and 2014, despite protection measures.

On 7 February 2020 Council was notified by DES that amendments to the planning framework, relating to koala habitat, had taken effect. These included amendments to the *Planning Regulation 2017*, *Nature Conservation (Koala) Conservation Plan 2017*, *Vegetation Management Regulation 2012* and the *Environmental Offsets Regulation 2014*. The amendments to these instruments included a new regulatory map of koala habitat and new provisions relating to the clearing of koala habitat and other development on premises with mapped koala habitat.

The new koala habitat mapping continued to include the mainland of the Redlands Coast within the Koala Priority Area (KPA). However, despite Council's earlier submission, North Stradbroke Island continued to be excluded from the KPA.

As outlined in previous reports, a critical issue for the Redlands Coast was the removal of protection over areas of koala bushland habitat and koala rehabilitation areas on the mainland that were previously regulated.

The new South East Queensland (SEQ) Koala Conservation Plan Map significantly reduced the area of previously mapped koala habitat. Of most importance, just under 6155ha of land that was previously afforded some level of protection either as bushland habitat or koala rehabilitation was removed from the new regulatory mapping which commenced on 7 February 2020.

Under the 7 February 2020 mapping approximately 1505ha of land that was previously mapped as 'high and medium' value bushland habitat on the mainland was identified as 'restoration area' while an additional 19ha of land that had previously been mapped as low value bushland habitat was also mapped as 'restoration area'. Restoration areas, although identified in the new mapping, were not afforded any level of regulatory protection.

At its General Meeting on 12 February 2020, Council resolved "*...to urgently review the new State Koala mapping and legislation adopted last week [on 7 February 2020], and bring a report back to Council by 27 May 2020 [...]*".

At its General Meeting on 27 May 2020 Council considered the outcomes of this review and subsequently resolved "*to seek approval to commence a Temporary Local Planning Instrument (TLPI) [...] to submit the proposed TLPI to the Planning Minister for approval [... and ...] to submit a further submission to the Planning Minister seeking formal advice on the options as outlined in this report to provide ongoing protection to areas of previously mapped koala habitat removed from the new State koala habitat regulatory map adopted on 7 February 2020 [...]*".

On 10 June 2020 the Queensland Treasury (Planning Group) issued a 'Notice of request for additional information and to pause the timeframe for proposed Temporary Local Planning Instrument No. 1 (Protection of Transitional Koala Habitat) 2020' (Pause Notice). This Pause Notice requested additional information to demonstrate compliance with the *Planning Act 2016*.

At its General Meeting on 5 August 2020 Council considered a Notice of Motion and resolved to "*[...] do a comparison of the revised State Government koala mapping against the proposed Temporary Local Planning Instrument submitted to the State Government (29 May 2020) to identify any gaps and bring a report to Council to consider protecting these gaps through a city plan amendment.*"

On 24 August 2020 the Deputy Director-General advised Council that the South East Queensland Koala Conservation Strategy (the Strategy) had been finalised and was going to be released. The final version of the Strategy included an amended koala habitat map, which identified additional areas of 'Locally Refined Koala Habitat Areas v1.1' (LRKHA). This new map took effect on 29 August 2020, when the *South East Queensland Koala Conservation Strategy 2020-2025* was formally released.

Urgency

Council has until 23 October 2020 to make further comment to the State Government on the Koala Habitat mapping.

ISSUES

The framework for koala habitat protection and environmental protection is complex, with a number of different Federal, State and local regulatory instruments as well as non-regulatory policies and programmes. This report specifically seeks to identify and summarise any gaps between the new State koala habitat regulatory mapping and the proposed TLPI.

Koala habitat is mapped in the new Koala Conservation Plan Map, which identifies koala habitat areas and koala habitat restoration areas. Importantly, under the new framework only mapped koala habitat areas are protected by provisions in the *Planning Regulation 2017*. There is no regulatory protection for koala habitat restoration areas.

Recognising the significant reduction in the area of protected koala habitat on the mainland, Redland City Council resolved to make a TLPI to provide interim protection, up to two years to previously protected habitat areas removed from the State's mapping. The TLPI proposed identifying and protecting areas that had been previously mapped as koala habitat, where that habitat intersected with Council's own vegetation mapping (to avoid including areas where there was no vegetation, for example in areas where development has occurred).

The primary purpose of the TLPI was to put in place interim protection arrangements, which would allow Council to continue to actively engage and negotiate with the State to find a long term solution that improved the regulatory mapping and provided a better outcome for koala habitat protection on the Redlands Coast.

In response to comments and concerns raised by Redland City Council, and other local governments in South East Queensland, DES released proposed changes to its regulatory koala mapping on 29 August 2020, which included adding additional areas, identified as 'Locally Refined Koala Habitat Areas v1.1'.

The LRKHA v1.1 was mapped using the State's methodology for identifying koala habitat, using a more refined scale and by updating the 'remnant' vegetation data that informed the map. This means that vegetation that had previously been mapped as 'regrowth' was reconsidered and identified as 'remnant'.

The State has committed to an annual review process, which will consider up-to-date data sources and changes to habitat extent. It is expected this process will allow local government to nominate additional areas for inclusion in the regulatory koala map. The State has also established a pathway for landowners to request removal of incorrect and inaccurate habitat mapping.

The State has also advised that the first annual review will be in early 2021 and that LRKHA v1.1 layer will be mapped as core habitat, as it meets the methodology and criteria established by the State.

As noted earlier, the proposed TLPI mapped an additional 2138ha of land considered koala habitat on the mainland. A review of the revised LRKHA v1.1 highlights an increase in the mapped area of LRKHA of 1580ha from the original mapping previously released on 7 February 2020. Some of the additional area includes land initially identified in the February mapping as 'restoration area' being reconsidered as 'koala habitat', as well as the identification of new koala habitat areas previously not included in version 1 (7 February version) of the mapping.

Importantly, the LRKHA v.1.1 layer includes 1008ha of the habitat that was mapped in the proposed TLPI and an additional 572ha of land not previously identified in version 1 of the mapping, or draft TLPI.

Attachment 1 shows both the overlap between the proposed TLPI area and the revised LRKHA v1.1 as well as the additional 572ha.

The State has also advised that the 1130ha of habitat that was mapped in the proposed TLPI, but has not been mapped in the updated LRKHA, included:

- 18ha of areas the State deemed not to be koala habitat based on the Regional Ecosystem identified (rainforest areas);
- 916ha that the State deemed to be houses, roads, non-native vegetation, already cleared areas or isolated trees; and
- 196ha that had been removed through the Property Map of Assessable Vegetation (PMAV) process.

The State has also advised that the first annual review will be in early 2021 and that LRKHA v1.1 layer will be mapped as core habitat, as it meets the methodology and criteria established by the State.

The regulatory changes that commenced in February 2020 mean that where an application was made for a PMAV prior to February 7 2020, the prohibition on 'interfering' with koala habitat does not apply as it is considered 'exempted development', as defined in schedule 24 of the Planning Regulation. Despite many of these areas being heavily vegetated and of importance to koalas the State have made a policy decision that these areas will be excluded from the regulatory koala habitat mapping.

With the commencement of the new koala mapping, Matters of State Environmental Significance (MSES) mapped in the current version of the Environmental Significance (ES) overlay in City Plan is now out of date. The State has advised Council should seek to update this layer as a future amendment of City Plan mapping, including the amended Locally Refined Koala Habitat Areas v1.1 (LRKHA v1.1).

In addition, this presents an opportunity to split the ES overlay map to show MSES and Matters of Local Environmental Significance (MLES) on two separate maps. With the two layers combined, MSES frequently 'masks' the extent of underlying MLES which makes interpretation difficult for Council's assessment officers. This change is outside the scope of this report and will need to be considered at a future meeting of Council

Gaps in regulatory protection

The updated State mapping significantly addresses many of the concerns previously raised by Council. However, one of the key regulatory gaps remaining is Council's inability to require offsets in areas mapped as MLES.

The Offsets Framework does not allow for an offset to be applied on a matter that is identified as a 'State' matter. This means that if an area is koala habitat, but the State has not mapped it as koala habitat, then even if it is mapped under the Environmental significance overlay as MLES Council cannot require an offset for it. Under the previous koala regulatory provisions this was not a significant issue as much of the mainland outside the protected koala bushland habitat areas was mapped as koala rehabilitation area. Within these areas a developer was required to avoid, minimise or offset any loss of koala trees.

It is understood the State is currently formulating advice for Council on how to resolve this problem with the Offsets Framework to ensure that the policy objective of not allowing 'double dipping' (i.e. that an applicant might have to pay an offset charge twice for the same impact), but still enabling Council's to require an offset where there is an impact on environmental values.

Formal submission on the Koala Conservation Strategy (including proposed mapping changes)

The DES has invited formal submissions on the mapping changes in regards to the additional LRKHA areas.

DES has specifically requested Council provide advice on areas to be removed from the mapping:

- As there is development (e.g. house);
- As it is cleared; and
- As it is incorrectly mapped as koala habitat Regional Ecosystem type.

Based on the time and resources available, officers are generally satisfied none of the additional areas of mapped LRKHA fall within the above categories. In addition, the koala habitat mapping has the effect of prohibiting 'interfering' with koala habitat. Accordingly, if an area were already developed or cleared then the regulations would have no effect. If the vegetation is incorrectly mapped, this may be resolved through the development assessment process (as with other mapped overlays).

Recognising these circumstances, it is recommended that Council's response to the mapping changes supports the inclusion of the additional areas and does not support the removal of any of the additional mapped areas.

In addition, it is recommended the submission seek continued Council involvement in proposed further planned investigations including:

- Exploring options to achieve strategic planning outcomes alongside the net gain koala habitat targets;
- An agreed process for consultation on future mapping updates;
- Immediately progressing the LRKHA transitional mapping project, including identifying options for protection mechanisms for areas local governments may want to protect such as Matters of Local Environmental Significance (MLES) and habitat corridors;
- Preparing for the first annual update to the koala habitat mapping (due in 2021); and
- Working collaboratively to assist Council in protecting areas removed from the regulatory maps through the PMAV process.

Proposed Temporary Local Planning Instrument No. 1 (Protection of Transitional Koala Habitat) 2020

As noted earlier in this report, on 10 June 2020 the Queensland Treasury (Planning Group) responded to Council's proposal to make a TLPI to protect areas of 'transitional' koala habitat with a Pause Notice. This Pause Notice requested additional information to demonstrate compliance with the *Planning Act 2016*. An additional Pause notice was issued in September 2020.

Recognising the increase in the area of LRKHA v1.1, officers recommend that Council does not proceed with the draft TLPI.

If Council decides to proceed with the TLPI, additional information raised in the Pause Notice will need to be collated, prepared and provided to the Queensland Treasury (Planning Group).

STRATEGIC IMPLICATIONS

Legislative Requirements

The koala habitat map is a regulatory instrument, through the *Planning Regulation 2017*.

Risk Management

The information presented in this report and proposed response to the State ensures planning for the Redlands Coast remains current and consistent with community expectations.

Financial

Implementation of the recommendations of this report and any additional analysis and reporting will be funded as part of the existing operating budget of the City Planning and Assessment Group.

People

The staff resourcing required to implement the recommendations of this report will be primarily drawn from the Strategic Planning Unit of the City Planning and Assessment Group.

Environmental

The proposed recommendations of this report help to achieve the overall aim of the *Redland Koala Conservation Strategy 2016* and *Redland Koala Conservation Action Plan 2016-2021*, which is to *“help retain a viable koala population, and conserve and manage suitable habitat both on the south east Queensland mainland areas and North Stradbroke Island”*

Social

The proposed recommendations of this report will also contribute to the liveability of the Redlands Coast, protecting scenic natural landscapes and habitat corridors. The City Plan’s strategic framework identifies these as important components in providing ‘liveable communities’.

Human Rights

There are no known human rights implications associated with this report.

Alignment with Council's Policy and Plans

Redland City Council’s Corporate Plan 2018-2023 establishes a commitment to promoting:

“A diverse and healthy natural environment, with an abundance of native flora and fauna and rich ecosystems, will thrive through awareness, commitment and action in caring for the environment.

- 1. Redland’s natural assets including flora, fauna, habitats, biodiversity, ecosystems and waterways are managed, maintained and monitored.*
- 2. Threatened species are maintained and protected, including the vulnerable koala species.”*

Council understands that key to the delivery of this outcome is the maintenance of sufficient wildlife habitat across the city to support the ecological functions of the flora and fauna that live within or migrate through Redlands Coast.

On 3 June 2015, Council adopted the Natural Environment Policy POL-3128, consolidating former environmental policies. Council resolved to prepare updated strategies and plans to progress the Natural Environment Policy, identifying a number of priorities; including Koalas. This plan will relate to the following sections of the Natural Environment Policy:

“1. Protect, enhance, restore the natural values of the City that include:

- a. Koalas and other native animal and plant populations and habitats;*
- b. core habitat areas as sanctuaries for wildlife;*
- c. safe wildlife movement corridors across the landscape;*

d. maintaining no net loss of native vegetation as defined in the Vegetation Management Act 1999;

e. biological diversity and ecosystem services;

f. waterways, foreshores, wetlands, coasts, aquatic ecosystems and Moreton Bay;

2. Enhance and restore Council's protected areas and strengthen the connection between core habitats through public open space plantings, pest management and appropriate street tree planting programs in accordance with SEQ Natural Resource Management targets.

3. A conservation acquisition program that prioritises acquisition of land for rehabilitation, offsets, corridors and long term protection to achieve cost effective environmental outcomes that contribute to facilitating biodiversity conservation (e.g. koala survival) and has community benefits.

4. Manage protected areas to provide the best possible buffering of the City's natural and cultural heritage values from the impacts of a changing climate."

The purpose of the proposed recommendations are to ensure alignment with Council's current strategic policy position related to the ongoing protection of Koala habitat.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Environment and Education Unit, Environment Regulation Group	August and September 2020	Discussed report content

OPTIONS

Option One

That Council resolves as follows:

1. To support the recent changes to the Koala Conservation Plan map incorporating additional areas of Locally Refined Koala Habitat Areas v1.1.
2. To respond to the Department of Environment and Science, as outlined in Attachment 2.
3. To not proceed with the proposed Temporary Local Planning Instrument No. 1 (Protection of Transitional Koala Habitat) 2020 and advise the Queensland Treasury (Planning Group) accordingly.
4. That this report and attachments are released as soon as practicable after this resolution is published, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

Option Two

That Council resolves as follows:

1. To write to Department of Environment and Science requesting further changes to the Koala Conservation Plan map to include all areas identified in the proposed TLPI are included as Locally Refined Koala Habitat Areas.

2. To continue with the proposed Temporary Local Planning Instrument and provide the requested additional information as requested by the Queensland Treasury Planning Group in its Pause Notice.
3. That this report and attachments remain confidential until such time that the draft Temporary Local Planning Instrument process has been completed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. **To support the recent changes to the Koala Conservation Plan map incorporating additional areas of Locally Refined Koala Habitat Areas v1.1.**
2. **To respond to the Department of Environment and Science, as outlined in Attachment 2.**
3. **To not proceed with the proposed Temporary Local Planning Instrument No. 1 (Protection of Transitional Koala Habitat) 2020 and advise the Queensland Treasury (Planning Group) accordingly.**
4. **That this report and attachments are released as soon as practicable after this resolution is published, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.**

Attachment 1



X October 2020

Ms Karen Hussy
Deputy Director-General
Environmental Policy and Programs
Department of Environment and Science
GPO Box 2454
Brisbane
QLD 4001

Dear Ms Hussy

Release of South East Queensland Koala Conservation Strategy 28 August 2020

Thank you for your letter of 24 August 2020 advising that the South East Queensland Koala Conservation Strategy (the Strategy) was being released with an updated map including additional Locally Refined Koala Habitat Areas (LRKHA v1.1).

I acknowledge the Department's efforts to address feedback from Redland City Council and other local governments in South East Queensland.

Redland City Council has previously raised concerns in relation to the methodology used to create the mapping. The latest version of the map seems to have expanded the area of koala habitat protected to map, which goes some way to addressing Council's concerns. Council supports the inclusion of these additional areas in the Koala Conservation Strategy map.

Council would like to re-iterate concerns relating to the methodology in developing this map. Council's outstanding concerns relate to the accuracy of the Regional Ecosystem mapping and that properties subject to a Property Map of Assessable Vegetation (PMAV) have been excluded. This exclusion, and changes to the *Planning Regulation 2017* prevent Council from regulating vegetation in these areas as well. I understand the State had previously planned on collecting up to date LiDAR data this year, and that this would inform an update of the Regional Ecosystem mapping. This should be prioritised to improve further the accuracy of future versions of the koala habitat mapping.

Be advised, that Council does not wish to nominate specific areas to be excluded from the LRKHA v1.1 map at this stage. Council has welcomed the commitment from DES to:

- Explore options to achieve strategic planning outcomes alongside the net gain koala habitat targets
- Agree to a process for consultation on future mapping updates
- Immediately progress the LRKHA transitional mapping project, including identifying options for protection mechanisms for areas councils may want to protect such as Matters of Local Environmental Significance (MLES) and habitat corridors
- Prepare for the first annual update to the koala habitat mapping (due in 2021).

I await further advice from your Department on the progress of these commitments. Should you require further information or assistance from Redland City Council, please contact Jodi Poulsen, Principal Environmental/Strategic Planner on 3829 8467 or Jodi.poulsen@redland.qld.gov.au.

Version 1.1