
COMPULSORY LAND ACQUISITION FOR EAST THORNLANDS URBAN WILDLIFE CORRIDOR

Objective Reference: A1748942
Reports and Attachments

Attachments: [Greenspace Corridor Mapping](#)
[East Thornlands Wildlife Corridor, Property Details, Zoning Information and Aerial Photograph](#)



Authorising/Responsible Officer: Louise Rusan
General Manager Community & Customer Services

Author: Gary Photinos
Manager Environment & Regulation

PURPOSE

That Council exercise its powers under the *Acquisition of Land Act 1967* to resume (taking of land) situated at 80-86 South Street Thornlands described as lot 4 on SP 137464 for Environmental Purposes.

BACKGROUND

The property at 80-86 South Street has been identified for over 16 years as forming part of the Thornlands Urban Wildlife Corridor and Nature Belt. Council has resolved to acquire this property by negotiation several times over the last 16 years and more recently when it resolved to adopt the Environment Charge Acquisition List November 2013 at the General Meeting on 20th November 2013.

As the Corridor and Nature Belt are now almost complete this property is the last remaining parcel of land still in private ownership and negotiations with the land owner in the past and to date have been unsuccessful.

ISSUES

Description of Land

The property is situated at 80-86 South Street Thornlands and described as lot 4 on SP 137464. The total area of land consists of 3.26 hectares and if this land is acquired by Council would form a critical section of the Corridor and Nature Belt which would be at least 80 metres wide with urban residential development on both the eastern and western boundaries. It is a narrow block containing a house and two sheds. It is a cleared lot that had been used for grazing in the past. There are a few substantial trees on the property and the land is constrained with a flood overlay.

The attached greenspace corridor mapping clearly shows in a graphic way the importance this land contributes to the wildlife corridor. At a landscape level, this corridor (consisting of both Council and State Government land) now goes from Cleveland to Pinklands.

Councils' Parks & Conservation Services Unit has identified 11 dead trees on the property. These dead trees would require removal or habitat pruning should the property come under Council management. A barbed wire fence on the western boundary of the property would also require removal. Consideration would also need to be given on whether the small dams on the property would need to be filled. Weed infestations of Pineapple guava, Pepper tree, Camphor laurel, Easter cassia, Groundsel, Ochna, Cocos palm, Devils Apple and Fishbone fern were identified on the property.

Local Area and Environment Planning Since 1998

The 1998 Planning Scheme identified the subject site as Rural Non-Urban, and the Preferred Dominant Land Use (PDLU) in the 1998 Strategic Plan as Special Protection Area.

The PDLU in DCP5 – East Thornlands Local Area Plan also identifies the subject site as Special Protection Area and Open Space. This land allocation was required to implement a public recreational strategy creating environmental and coastal corridors. The result to date has been an integrated system of linear and nodal parks that allows a wide pattern of usage in both active and passive recreational pursuits.

The subject site was significantly affected by an enhancement corridor on the Bushland Habitat Overlay; and the indicative flood prone area on the Flood Prone, Storm Tide and Drainage Constrained Land Overlay.

The site also adjoins area of local parkland that was identified in the Redland Shire Council Open Space Plan 2004-2016. A development application for the subject site was refused on grounds the site forms an important part of an environmental and waterway corridor in the east Thornlands area. This strategic planning rationale was accepted by the Planning and Environment Court in 2002, following an appeal against Council's decision to not approve an application for residential development on the subject land.

The subject site has connections to adjacent wildlife corridors in north-south and east-west directions and is shown as Enhancement Corridor on the Redland Shire Council Environmental Inventory Stage 4. The site also provides connection of habitat and movement corridors for koalas, adjoins and buffers drainage lines and plays an important role in managing water quality in overland flow paths.

The definitive Koala Habitat mapping undertaken by Council in 2015 identified areas of both "Remnant Koala Habitat" and "Urban Koala Habitat Trees" within the property. The area of remnant koala habitat is associated with Regional Ecosystem 12.3.6 (Melaleuca quinquenervia and Eucalyptus tereticornis open forest on floodplains and fringing drainage lines in coastal areas). The urban koala habitat tree area was identified as containing both primary and secondary koala food trees.

An over-arching principle of this Local Area Plan was that future development of the local area was dependent upon areas identified as possessing environmental conservation qualities being adequately protected at fair and reasonable cost to the community. Where land has been identified as transferring to public ownership it would be done firstly through dedication and then through purchase to protect the ecological values using the Environment Separate Charge.

Development Application and Court Outcomes

As mentioned earlier, Council refused an application for a preliminary approval for a material change of use and reconfiguration of land made by the owner of the land around 25th January 2002. In essence the owner wanted to change the zoning from rural non urban to residential and reconfigure the lot into 11 residential allotments.

The applicant then appealed the decision to the Planning and Environment Court¹ and the matter was heard by Judge Brabazon QC on 19 June 2002. His honour dismissed the applicants appeal essentially on the basis that no proper planning ground could be identified to support the alteration of the boundaries of the Special Protection Area designation on the Strategic Plan and the Development Control Plan.

Judge Brabazon QC in his judgement stated, "It should be accepted that wildlife corridors such as this, particular for the movement of koalas, are significant parts of the strategic planning of a local authority". The question of the corridor at the time was also emphasised in the State Planning Policy 1/97.

Judge Brabazon QC also mentioned in his judgement of Council's intentions to acquire the land and is quoted, "As it happens, there have been in very recent times, in the last week or so, negotiations [REDACTED] that have not been successful. The Council may, and it is quite likely that it will, have as priority efforts to purchase the land. There is also the possibility of compulsory acquisition."

Redlands Planning Scheme 2006

The site has a high strategic importance in the local/regional context as an important component of the environmental and waterway corridor in the east Thornlands area. Under DCP 5, such land was to generally be excluded from any form of future development.

To maintain the environmental and waterway corridor function, and given the environmental values and flooding hazard constraints affecting the subject site, the subject site was zoned Open Space in the Redlands Planning Scheme.

Draft Redlands City Plan 2015

The draft Redlands City Plan 2015 has zoned the property as 'Recreation and Open Space (ROS)', and contains the following overlays:

- Environmental Significance Overlay
- Flood and Storm Tide Hazard Overlay
- Waterway Corridors and Wetlands Overlay
- Bushfire Hazard Overlay

STRATEGIC IMPLICATIONS

The acquisition of 80-86 South Street Thornlands has been shown through the 1998 Strategic Plan as having a strategic and critical implication to the success of the wildlife corridor in Thornlands. The Council's sentiments to acquire this land have been well known for many years.

¹ Planning and Environment Court Appeal No. 409 of 2002 Mellish v Redland Shire Council, 80-86 South Street Thornlands

Legislative Requirements

Council has the ability under the Acquisition of Land Act 1967 to compulsorily acquire the land for environmental purposes.

Risk Management

The long history and clear intentions of the Council to protect this land as part of a wildlife corridor would mitigate any adverse findings should this matter be contested in the Land Court as a result of the compulsory acquisition.

Financial

An independent valuation has been obtained for costing purposes and provision has been made in the 2014/2105 financial year. Funds will be drawn down from the Environment Separate Charge for the acquisition and site establishment costs (based on 20% of the value of the property).

Site Establishment Costs

City Spaces have previously made an assessment of site establishment costs once this property is acquired into the public estate. There are approximately 8 big dead trees with dangerous limbs that would require immediate attention. There is also weed plant species such as bamboo that would also need attention. The existing western fence would be retained; however the front fence would need to be replaced with bollards. The structures on the property are old and would eventually be demolished and removed. A due diligence report will also be commissioned as part to the site establishment.

Environmental

- State Government Regional Ecosystems Mapping
Preclear V5 Regional ecosystems shows most of the block is classified as 12.5.2/12.5.3 Endangered
- Ecological connectivity
The block provides north/south ecological connectivity. It adjoins Council conservation land and would consolidate an ecological linkage. Given the southern end of the property is located with a stream buffer area, this end would be replanted for riparian buffering and contribute to the improvement local stream water health.
- Offsets
Given the extreme lack of available land for offsets for 12.5.2/12.5.3 endangered regional ecosystems, this land which is largely cleared would provide capacity as an offsets receiving site.

Alignment with Council's Policy and Plans

Council has approved a land acquisition program to support the Environment Charge Acquisitions and Management Policy to achieve the following objectives:

1. To protect environmentally significant properties through selective acquisition as part of the broader strategy of methods for protecting, maintaining and rehabilitating environmental values and biodiversity;
2. To manage environmentally significant properties for existing and future generations and to protect the environmental significance of the site in both the short term and long term; and
3. To protect and enhance koala habitat, both urban and rural, through selective acquisition and rehabilitation, and to facilitate effective and safe koala movement.

CONSULTATION

The Principal Property Consultant has been consulted and provided the history of unsuccessful negotiations with the property owner. In addition, Property Services have sourced an independent valuation for the property.

The Environment and Education Unit has provided and confirmed the environmental and corridor values associated with the said site.

The City Spaces Group has provided information regarding the contiguous conservation estate, site establishment details/costings and potential for riparian offset plantings.

General Counsel has been consulted and undertaken a legal review of the actions proposed and drafted the officer's recommendations.

The Strategic Planning unit have provided all the background data and history regarding the 1998 planning scheme, the 1998 strategic plan, details of the Planning and Environment Court appeal and commentary on the current Redlands Planning Scheme as it applies to the said site.

OPTIONS

1. That Council resolves as follows:
 1. To proceed to negotiate the purchase of Lot 4 SP 137464 (80-86 South Street, Thornlands) at fair market value, for environmental purposes to assist in establishing the Thornlands Urban Wildlife Corridor and Nature Belt;
 2. If negotiations to purchase Lot 4 SP 137464 (80-86 South Street, Thornlands) are unsuccessful that Council proceed to resuming the lot for environmental purposes under the Acquisition of Land Act 1967;
 3. To delegate authority to the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge the agreement and to sign all documents in regard to this matter.
 4. That report and attachments remain Confidential.

2. That Council resolves as follows:
 1. To proceed to negotiate the purchase of Lot 4 SP 137464 (80-86 South Street, Thornlands) at fair market value, for environmental purposes to assist in establishing the Thornlands Urban Wildlife Corridor and Nature Belt; and
 2. That the Chief Executive Officer be delegated authority, under Section 257 1 (b) of the *Local Government Act 2009*, to negotiate, make, vary and discharge the agreement and to sign all documents in regard to this matter.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. **To proceed to negotiate the purchase of the land described in the confidential attachment '*East Thornlands Wildlife Corridor, Property Details, Zoning Information and Aerial Photograph*' at fair market value, for environmental purposes;**
2. **If negotiations to purchase the land described in the attachment '*East Thornlands Wildlife Corridor, Property Details, Zoning Information and Aerial Photograph*' are unsuccessful that Council proceed to resume (taking of land) for environmental purposes under the *Acquisition of Land Act 1967*;**
3. **To delegate authority to the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge the agreement and to sign all documents in regard to this matter; and**
4. **That this report and attachments remain Confidential until such time as the acquisition of the said land has been finalised.**

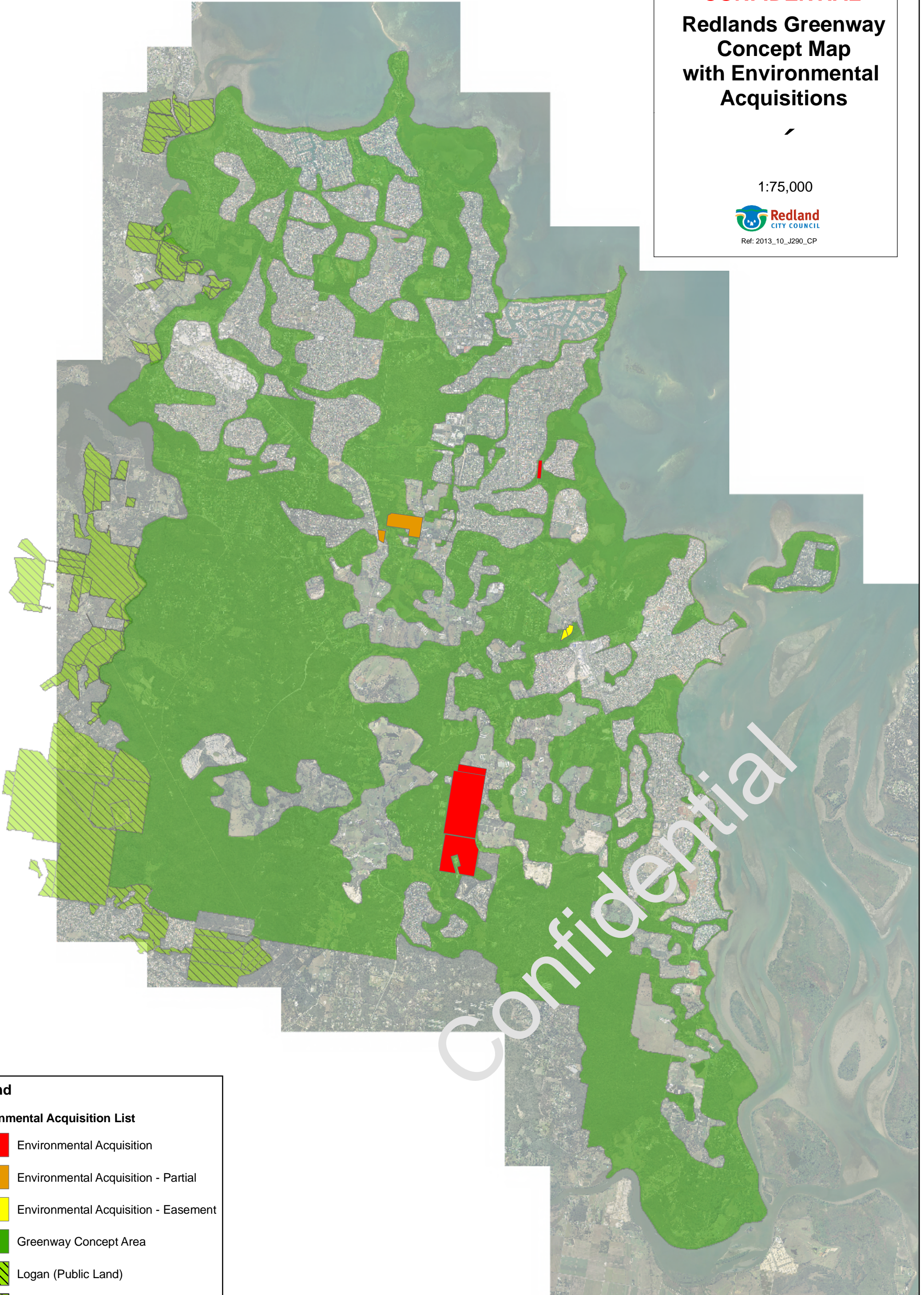
CONFIDENTIAL

**Redlands Greenway
Concept Map
with Environmental
Acquisitions**

1:75,000

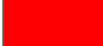







Ref: 2013_10_J290_CP



Legend

Environmental Acquisition List

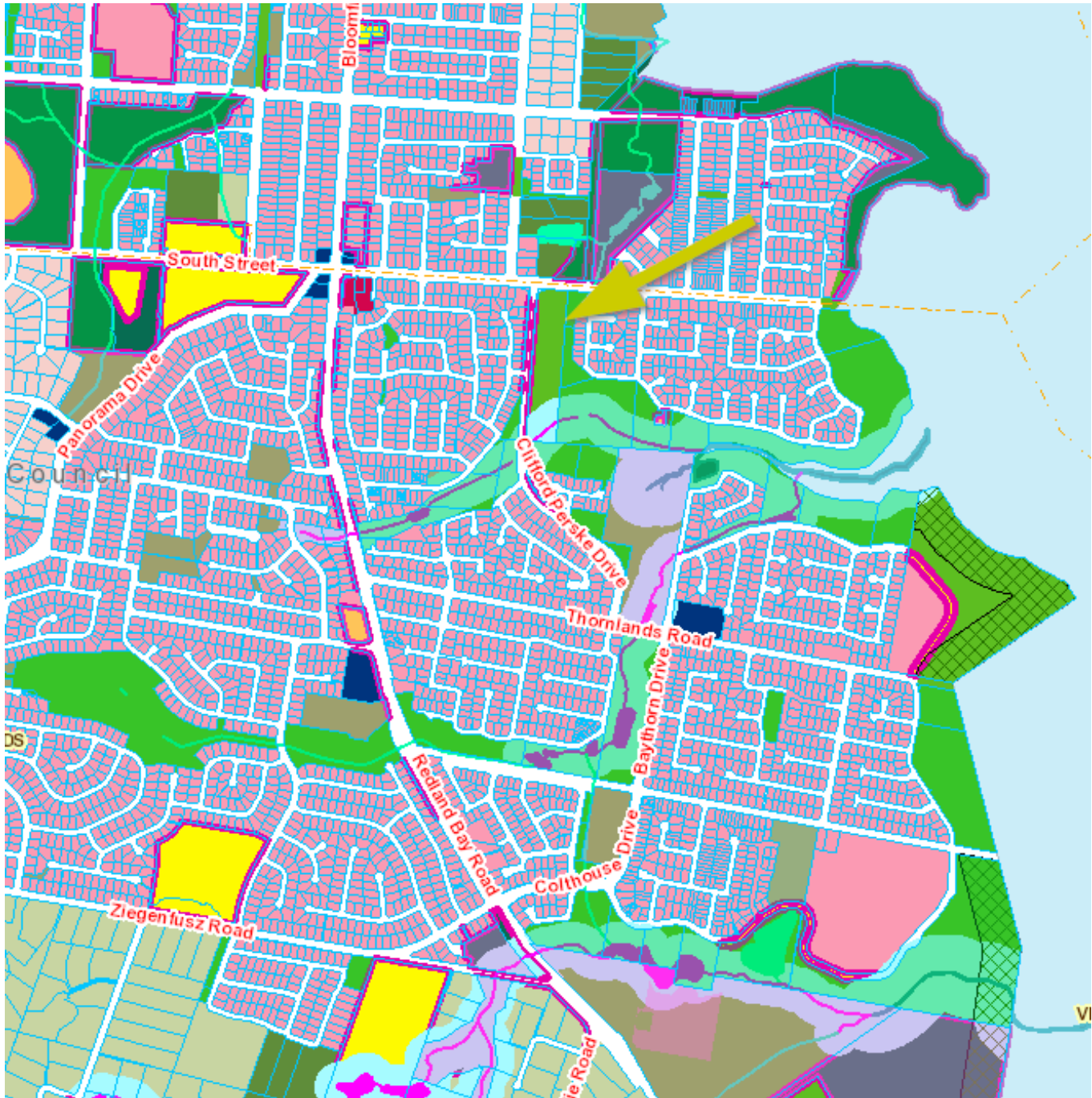
-  Environmental Acquisition
-  Environmental Acquisition - Partial
-  Environmental Acquisition - Easement
-  Greenway Concept Area
-  Logan (Public Land)
-  Brisbane (Public Land)

Note: This map graphically represents a conceptual level of the Greenway Concept Area only and is not intended to be interpreted at the cadastre level.

Land situated at 80-86 South Street, Thornlands described as Lot 4 on SP 137464

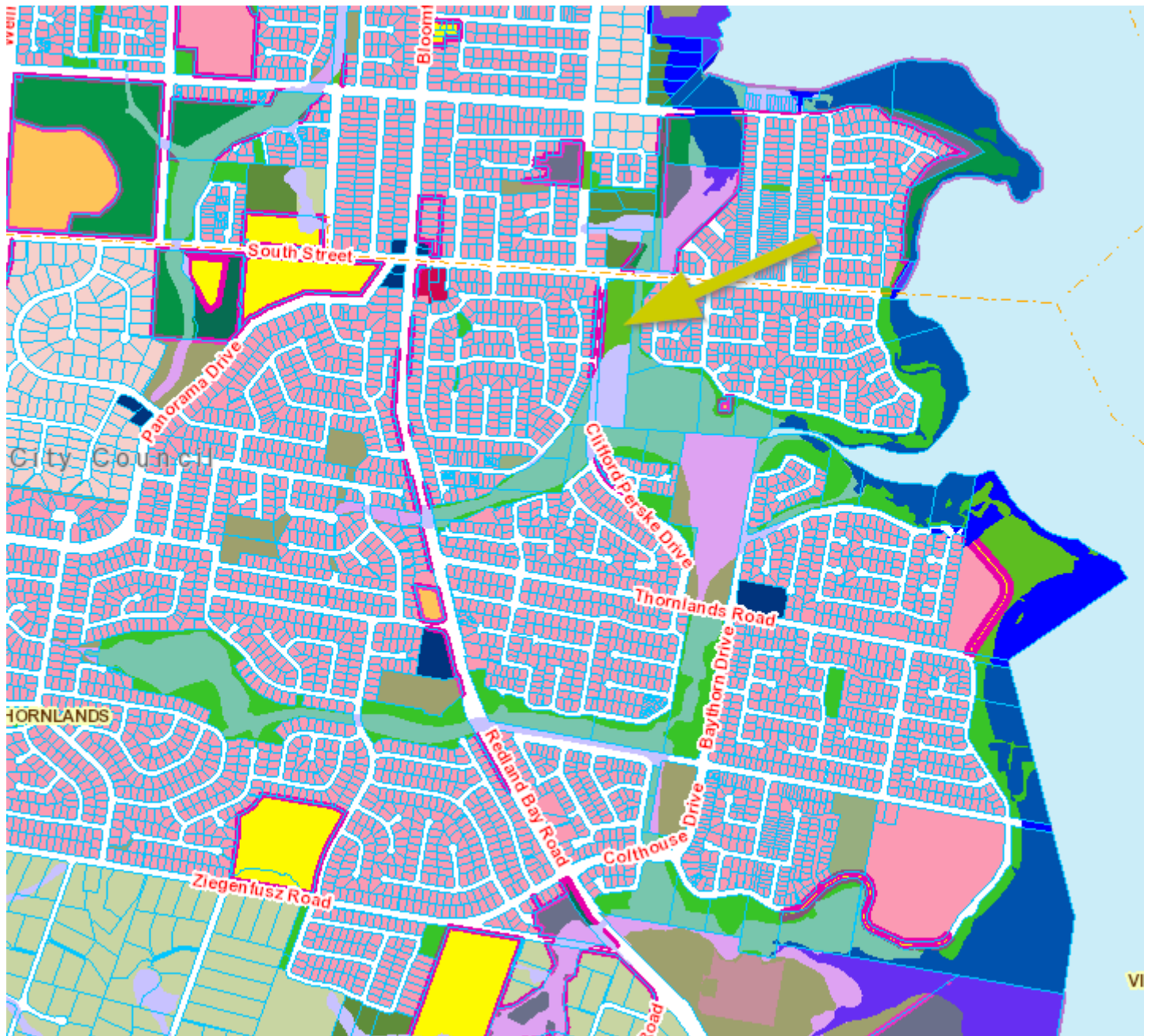
East Thornlands Wildlife Corridor, Property Details, Zoning Information and Aerial Photograph

Waterways Overlay



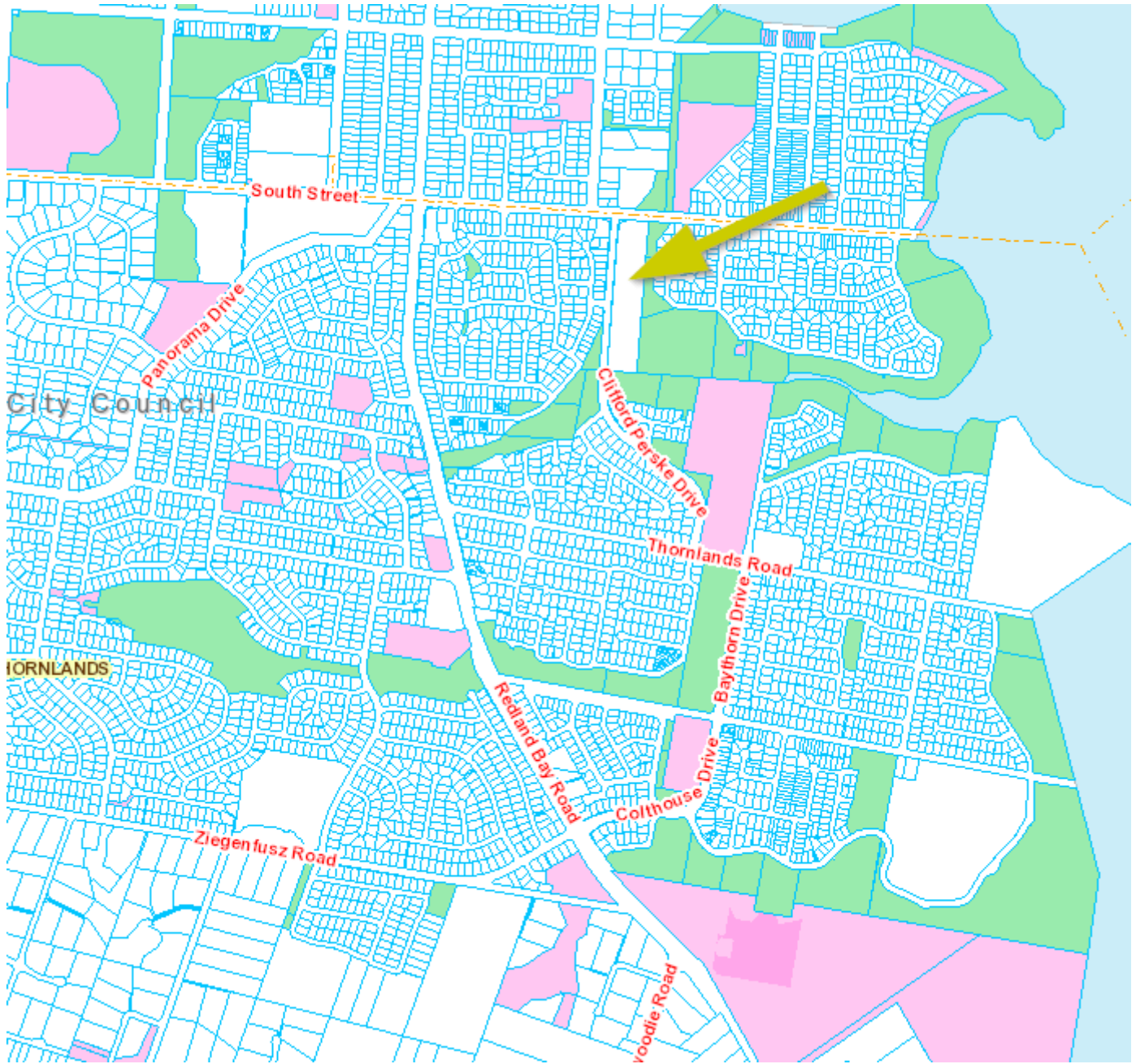
Land situated at 80-86 South Street, Thornlands described as Lot 4 on SP 137464

Flood Prone Overlay



Land situated at 80-86 South Street, Thornlands described as Lot 4 on SP 137464

Council Land Overlay



Land situated at 80-86 South Street, Thornlands described as Lot 4 on SP 137464

Street view

