

19.3 HARRIDAN PTY LTD V REDLAND CITY COUNCIL - PLANNING & ENVIRONMENT COURT APPEAL NO. 3344 OF 2018 - OFFER TO RESOLVE THE APPEAL AGAINST REFUSAL OF STANDARD FORMAT 1 LOT INTO 7 LOTS AT 14-20 BONNIE STREET, THORNLANDS

Objective Reference:

Authorising Officer: Louise Rusan, General Manager Community & Customer Services

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

Report Author: Christy Englezakis, Senior Appeals Planner

Attachments:

1. Harridan Decision Notice
2. Council Resolution - Division 9 Request
3. Division 9 Request Refusal
4. Amended plan
5. Original Plan
6. Report on Division 9 Request
7. Area of Enhancement Corridor
8. Draft Conditions
9. Amended Orders

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:

(f) *starting or defending legal proceedings involving the local government.*

PURPOSE

An offer to resolve the issues in the abovementioned appeal was made by the appellant, Harridan Pty Ltd, on 16 January 2019, comprising an amended plan of development. Following assessment by Council officers against the relevant statutory instruments and advice from Council's experts and Counsel, it is recommended that Council accept the offer.

BACKGROUND

Harridan Pty Ltd appealed against the decision of Council to refuse an application for a development permit for reconfiguring a lot at Lot 6 on SP164062 (1 into 7 lots plus road) on 23 August 2018 (see attachment 1). This followed Council's refusal of the applicant's request to reclassify an area of High Value Bushland Habitat on the land to Medium Value Rehabilitation Habitat (see attachments 2 and 3) under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions (**Koala SPRP**).

The issues in dispute in this appeal relate to impacts on koala habitat arising from the proposed development under the Koala SPRP, State Matter of Environmental Significance for Wildlife Habitat and Redlands Planning Scheme v7 (**Planning Scheme**). Progress of the appeal to date has involved the ecology joint expert report (**JER**) process and an application by Council to amend the grounds for refusal. The planning JER process is still to occur, with further reports and preparations required for a hearing.

In making this offer, the appellant is seeking to resolve all of the issues in the appeal, which will provide for a timely resolution and certainty, particularly as it may take three months or more after the hearing date for the judgment to be handed down. Resolving the appeal will also allow the parties to avoid costs in preparing, and attending Court, for a hearing.

ISSUES

Proposed Changes

The amended plan (see attachment 4) changes the layout and reduces the number of lots from seven to six. Lots 4 and 5 on the original plan of development (see attachment 5) have been consolidated to form one large lot. The effect of this change is to remove the building envelope and access road for the original Lot 4 from the mapped Bushland Habitat area. It also reduces the number of koala habitat trees required to be removed as a result of the development. The location of lot boundaries, building envelopes and access arrangement for Lots 2, 3, 5 and 6 have also been modified. Lot 1, in which development currently sits outside the building envelope for that lot, will be improved by the placement of a building envelope to prevent further clearing and development outside the designated area. The proposed change is still reliant on re-classification of part of the Bushland Habitat on the southern portion of the site to Rehabilitation Habitat.

Koala Habitat

Expert advice

Council engaged [REDACTED] to undertake a review of the original development plan and participate in the ecology JER process for the appeal. Through that process, [REDACTED] identified a number of concerns with the development as originally proposed, including density and the potential application of vegetation clearing exemptions under the *Planning Regulation 2017 (the Regulation)*. The Regulation provides for certain clearing to occur for the essential management of land, particularly for bushfire management. [REDACTED] raised the issue of potential clearing of koala habitat trees outside the designated building envelopes under this exemption. However, these aspects were not grounds of refusal before the Court. Relevantly, [REDACTED] concluded that the reclassification request under Division 9 of the Koala SPRP ought to have been granted, as the habitat is no longer consistent with 'Bushland Habitat', as described in the Koala SPRP.

In conference with [REDACTED] on 21 January 2019, he noted that the amended plan resulted in a better environmental outcome than that under the original plan, with the loss of fewer koala habitat trees and increased opportunity for offsets and habitat enhancement on site. [REDACTED] opinion with respect to density and clearing exemptions persisted, however was moderated by the removal of one lot and relocation of building envelopes and roads.

Officer's assessment

Council's Environmental Assessment team supported the original development proposal on the basis that it complied with the relevant legislation, despite concerns about the extent of the impact on habitat values. Officers also concluded that the Division 9 application should be partially approved, as the southern portion of the site did not represent Bushland Habitat, as defined in the Koala SPRP.

Officers from Council's Environmental Assessment Team reviewed the amended plan on 17 January 2019 within the context of the relevant legislation and Council's grounds for refusal. Officers concluded that the amended plan would result in better environmental outcomes than those under the original plan, as:

- The reduction in yield, amended building envelopes and access arrangements results in, approximately, a 40% reduction in the clearing of koala habitat trees; and
- All building envelopes are located external to the mapped Bushland Habitat; and
- It provides a larger area for the on-site provision of offsets, resulting in a net gain of koala habitat; and

- It represents further minimisation of impacts on koala habitat to address the offsets hierarchy under the Queensland Environmental Offsets Framework; and
- The potential for application of the clearing exemptions under the *Planning Regulation 2017* is reduced through the relocation of building envelopes, increased buffers to retained habitat and greater opportunity to legally secure offsets on site.

Officers also noted that vegetation and habitat quality in the southern part of the subject land was still consistent with Medium Value Rehabilitation Habitat, as reflected in the Division 9 recommendation made in July 2018 (see attachment 6).

Wildlife Connections Plan

A section of the 'South Street Conservation Area to Eprapah Creek Corridor (Luke Street) – Enhancement Corridor' is located across the subject land (see attachment 7), encompassing the part of the land which officers recommended be reclassified. Enhancement Corridors "*are areas that exhibit sufficient ecological value and linkages that would be appropriate targets for strategic enhancement to strengthen Established Corridors*" (Wildlife Connections Plan 2018 – 2028, Redland City Council, p 28). They are a medium priority for rehabilitation. Priority outcomes for Enhancement Corridors include the management of impacts from urban and peri-urban areas, safe wildlife passage and rehabilitation of pinch points.

Officers considered the amended plan within the context of these priorities, noting however, that the Wildlife Connections Plan did not exist at the time the development application was made, and, whilst adopted by Council, it has not been incorporated into the Redland City Plan, therefore has no statutory basis. The current corridors amendment package, proposes to integrate wildlife corridors into the Environmental Significance overlay of Redland City Plan as a Matter of Local Environmental Significance. The outcome for the subject land, were this amendment to be approved, would be to make vegetation clearing code assessable and subject to requirements for offsets, revegetation and wildlife protection during clearing activities. As the land is mapped koala habitat, the same requirements will be imposed on the proposed development under the koala habitat provisions of the Regulation. The requirements for the proposed development and outcomes for the subject land would therefore be the same under the Redland City Plan and the Regulation. Development within any wildlife corridor will reduce functionality. However, the southern area of the site (mapped Enhancement Corridor) is degraded, impeding its function as a habitat linkage. Conditions requiring revegetation and offsets are likely to improve degraded habitat, whilst domestic animal control, weed management and noise and light reduction (urban impacts) may be managed through conditions.

Planning Implications

Officers reviewed the amended plan on 17 January 2019 and their position with respect to approval of the proposed development is unchanged, insofar that it does not conflict with the Planning Scheme and could be approved subject to conditions. Officers considered the grounds of refusal and concluded that the development would result in better planning outcomes than that of the original plan. Specifically:

- The proposed development complies with the relevant specific outcomes of the Park Residential Zone Code and, through reduced yield, relocation of building envelopes and increased opportunity for vegetation retention, is compatible with the semi-rural bushland setting; when compared with the existing Park Residential development to the east, the proposed lots are larger and will remain more densely vegetated; and
- Lots sizes and frontages remain compliant with the Reconfiguration Code; and

- The reduction in clearing will maximise scenic amenity; and
- It is considered that the proposed building envelopes and conditions will be sufficient to manage and protect environmental values.

Progress of the Appeal

The appellant's offer is open for Council to accept until 20 February 2019, subject to the preparation of draft conditions (see attachment 8). In the intervening period, Council's application to amend the grounds of refusal was considered by the Court on 29 January 2019.

The Court indicated some frustration with the application and was reluctant to make orders in the Council's favour due to the late stage of the appeal, and as it was not wholly satisfied with the argument put forward by the Council. The Court also saw merit in the appellant's submissions that the Council was seeking to improve its prospects in the appeal.

A compromise was reached by which the Court made orders to amend the grounds for refusal, but limited them to the issue of impacts on koala habitat (see attachment 9), and made an adverse costs order against Council, awarding the appellant the costs of and incidental to the application to amend the grounds of refusal. This means if the matter proceeds to a hearing, the issues in dispute will be limited to the impact of the development on koala habitat, and compliance with the Koala SPRP, Habitat Protection overlay, and the Park Residential Code and Reconfiguration Code insofar as they relate to koala habitat protection.

Orders were made to vacate all upcoming dates for the appeal. A review is scheduled for 22 February 2019, at which a hearing date will be set for May or June 2019 if Council decides to refuse the offer.

STRATEGIC IMPLICATIONS

Legislative Requirements

The offer has been considered and assessed against the relevant statutory instruments, including the Redlands Planning Scheme Version 7 [superseded], the State Planning Policy April 2016 and South East Queensland Koala Conservation State Regulatory Provisions [repealed].

Risk Management

Declining this offer will result in the matter proceeding to a hearing, which, if Council is unsuccessful, may result in the approval of the development in its original form.

Financial

If Council accepts the offer, the appeal will be resolved and there will be minimal additional cost to Council. Further, on 4 February 2019, the appellant amended their offer to waive its right to the benefit of the abovementioned costs order should Council resolve to settle the appeal.

People

Not applicable.

Environmental

Environmental implications are considered in the 'Issues' section of this report.

Social

Not applicable.

Alignment with Council's Policy and Plans

The offer, and subsequent officer's recommendation, align with Council's policies and plans as referenced within the 'Issues' section of this report.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Environmental Assessment Unit	17/01/2019	Environmental Assessment officers reviewed the amended layout and were of the opinion that it would achieve a better environmental outcome and could be approved with conditions.
Planning Assessment Unit	17/01/2019	Planning Officers reviewed the amended layout and were of the opinion that the development would result in improved planning outcomes than the original proposal.
Legal Services Unit	18/01/2019,	The Senior Solicitor facilitated further expert advice on the

Consulted	Consultation Date	Comments/Actions
	21/01/2019 and ongoing	amended layout and discussions with Counsel. Advice was also provided in respect of draft conditions and negotiations with the appellant.
Counsel	21/01/2019 and 22/01/2019	Facilitated discussions with Council's expert and officers about the offer and provided advice on prospects and negotiations.
Expert - Ecology	21/01/2019	Reviewed the amended layout and provided his opinion on the environmental outcomes.

OPTIONS

Option One

That Council resolves to:

1. accept the offer made by the appellant, generally in accordance with the amended layout and draft conditions package, and on the basis the parties bear their own costs;
2. instruct its solicitors to take all necessary steps to settle the appeal; and
3. maintain this report and attachments as confidential until the conclusion of the appeal, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.

Option Two

That Council resolves to:

1. accept the offer made by the appellant, generally in accordance with the amended layout and an alternative conditions package, on the basis the parties bear their own costs;
2. instruct its solicitors to take all necessary steps to settle the appeal; and
3. maintain this report and attachments as confidential until the conclusion of the appeal, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.

Option Three

That Council resolves to:

1. refuse the offer made by the appellant to resolve the appeal;
2. instruct its solicitors to take all necessary steps to prepare the appeal for a hearing; and
3. maintain this report and attachments as confidential until the conclusion of the appeal, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.

OFFICER'S RECOMMENDATION

That Council resolves to:

1. accept the offer made by the appellant, generally in accordance with the amended layout and an alternative conditions package, on the basis the parties bear their own costs;
2. instruct its solicitors to take all necessary steps to settle the appeal; and
3. maintain this report and attachments as confidential until the conclusion of the appeal, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.



Redland
CITY COUNCIL

23 August 2018

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Our Ref: BD: ke
File No: ROL006039
Contact: Planning Assessment

Harridan Pty Ltd

Dear Sir/Madam

Decision Notice

Sustainable Planning Act 2009

APPLICATION DETAILS

Proposed Development:	Standard Format Reconfiguration 1 into 7 lots plus road (SPA 2009)
Application Reference No:	ROL006039
Legal Description:	Lot 6 on SP164062
Site Location:	14-20 Bonnie Street Thornlands QLD 4164

The decision was made on 17 August 2018 by Council's delegate to refuse the application for Reconfiguring a Lot 1 into 7 lots Subdivision plus road on land described as Lot 6 on SP164062 and situated at 14-20 Bonnie Street, Thornlands. The proposed development is refused on the following grounds:

REASONS FOR REFUSAL

1. The proposed development conflicts with Item 1 of Column 2 in Table 6 – Development in a Priority Koala Assessable Development Area, in the South East Queensland Koala Conservation State Planning Regulatory Provisions, as the proposed subdivision layout will result in the removal of non-juvenile koala habitat trees in the area mapped as High Value Bushland Habitat;
2. The proposed development conflicts with the Biodiversity State interest 'MSES – Wildlife Habitat' in Part E: Interim Development Assessment Requirements in the State Planning Policy July 2014, as the proposed development envelopes and the southern new road cannot be relocated outside of the mapped area, which could result in a significant adverse environmental impact on a matter of State environmental significance.

NEGOTIATION OF A DECISION

You are entitled to make representations to Council about this decision in accordance with Section 361 of the *Sustainable Planning Act 2009*.

RIGHTS OF APPEAL

A copy of the rights of appeal under Section 461 and Section 462 of the *Sustainable Planning Act* for Applicants is appended, together with Division 11 of the Act which deals with the making of an Appeal to the Planning and Environment Court.

A Submitter for a development application may also appeal to the Planning and Environment Court. Information about Submitter appeal rights for the Planning and Environment Court is set out in Sections 462, 463 and 464 of the *Sustainable Planning Act 2009*.

Applicants and Submitters may also have a right to appeal to the Building and Development Dispute Resolution Committee. For further details, please refer to the *Sustainable Planning Act 2009* Chapter 7, Part 2.

OTHER DETAILS

To expedite the processing of survey plans, a survey plan checklist is available on Council's website at:


<http://www.redland.qld.gov.au/FormsPermits/FormsDownload/Pages/Planning.aspx>

You should complete this checklist and submit it to Council with your survey plan(s).

Please be aware that in accordance with Schedule 19 of the Sustainable Planning Regulations 2009, no subdivision plan will be approved until rates and charges are paid in full.

Should you wish to obtain more information about Council's decision please contact Council's Planning Assessment team on (07) 3829 8999 or email DAmailbox@redland.qld.gov.au. Electronic copies of this Decision Notice are also available online at www.redland.qld.gov.au or at Council offices.

Yours sincerely



Chris Vize
Service Manager
Planning Assessment

Encl: Copy of the rights of appeal

City Planning & Assessment Customer Feedback

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www.redland.qld.gov.au/yourfeedback

ATTACHMENT 1

Sustainable Planning Act 2009

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

- (1) An applicant for a development application may appeal to the court against any of the following—
 - (a) the refusal, or the refusal in part, of the development application;
 - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a period mentioned in section 341;
 - (e) a deemed refusal of the development application.
- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the ***applicant's appeal period***) after—
 - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
 - (b) otherwise—the day a decision notice was required to be given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

Division 11 Making an appeal to court

481 How appeals to the court are started

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However the court may hear & decide an appeal even if the person has not complied with subsection (3)

482 Notice of appeal to other parties—development applications and approvals

- (1) An appellant under division 8 must give written notice of the appeal to—
 - (a) if the appellant is an applicant—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any concurrence agency; and
 - (iv) any principal submitter whose submission has not been withdrawn; and
 - (v) any advice agency treated as a submitter whose submission has not been withdrawn; or
 - (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any referral agency; and
 - (iv) the applicant; or
 - (c) if the appellant is a person to whom a notice mentioned in section 465(1) has been given—
 - (i) the chief executive; and
 - (ii) the assessment manager for the development application to which the notice relates; and
 - (iii) any entity that was a concurrence agency for the development application to which the notice relates; and
 - (iv) the person who made the request under section 383 to which the notice relates, if the person is not the appellant; or
 - (d) if the appellant is a person mentioned in section 466(1)—
 - (i) the chief executive; and
 - (ii) the responsible entity for making the change to which the appeal relates; and
 - (iii) the person who made the request to which the appeal relates under section 369, if the person is not the appellant; and
 - (iv) if the responsible entity is the assessment manager—any entity that was a concurrence agency for the development application to which the notice of the decision on the request relates; or
 - (e) if the appellant is a person to whom a notice mentioned in section 467 has been given—the entity that gave the notice.

- (2) The notice must be given within—485 Respondent and co-respondents for appeals under div 8
 - (1) Subsections (2) to (8) apply for appeals under sections 461 to 464. (2) The assessment manager is the respondent for the appeal.
 - (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
 - (4) Any submitter may elect to become a co-respondent for the appeal.
 - (5) If the appeal is about a concurrence agency's response, the concurrence agency is a correspondent for the appeal.
 - (6) If the appeal is only about a concurrence agency's response, the assessment manager may apply to the court to withdraw from the appeal.
 - (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
 - (8) A person to whom a notice of appeal is required to be given under section 482 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
 - (9) For an appeal under section 465—
 - (a) the assessment manager is the respondent; and
 - (b) if the appeal is started by a concurrence agency that gave the assessment manager a notice under section 385—the person asking for the extension the subject of the appeal is a co-respondent; and
 - (c) any other person given notice of the appeal may elect to become a co-respondent.
 - (10) For an appeal under section 466—
 - (a) the responsible entity for making the change to which the appeal relates is the respondent; and
 - (b) if the responsible entity is the assessment manager—
 - (i) if the appeal is started by a person who gave a notice under section 373 or a pre-request response notice—the person who made the request for the change is a co-respondent; and
 - (ii) any other person given notice of the appeal may elect to become a correspondent.
 - (11) For an appeal under section 467, the respondent is the entity given notice of the appeal.

483 Notice of appeals to other parties—compliance Assessment

- (1) An appellant under division 9 must, within 10 business days after the day the appeal is started, give written notice of the appeal to—
 - (a) if the appellant is a person to whom an action notice, compliance permit or compliance certificate has been given—
 - (i) the compliance assessor who gave the notice, permit or certificate; and
 - (ii) if the compliance assessor was a nominated entity of a local government and a copy of the request for compliance assessment was given to the local government under section 402—the local government; or
 - (b) if the appellant is a person to whom a notice mentioned in section 470(1) has been given—
 - (i) the entity that gave the notice; and

- (ii) if the entity that gave the notice was a nominated entity of a local government and the written agreement of the local government was required to give the notice—the local government.
- (2) The notice must state the grounds of the appeal.

484 Notice of appeal to other parties—other matters

- (1) An appellant under division 10 must, within 10 business days after the day the appeal is started, give written notice of the appeal to—
- (a) if the appeal is under section 471—the local government and coordinating agency for the application for approval of the master plan; or
 - (b) if the appeal is under section 472 or 475—the local government; or
 - (c) if the appeal is under section 478—the entity that gave the notice the subject of the appeal; or
 - (d) if the appellant is a person to whom an enforcement notice is given—the entity that gave the notice and if the entity is not the local government, the local government; or
 - (e) if the appellant is a person dissatisfied with a decision about compensation—the local government that decided the claim; or
 - (f) if the appellant is a person dissatisfied with a decision about acquiring designated land—the designator; or
 - (g) if the appellant is a party to a proceeding decided by a building and development committee—the other party to the proceeding.
- (2) The notice must state the grounds of the appeal.

485 Respondent and co-respondents for appeals under div 8

- (1) Subsections (2) to (8) apply for appeals under sections 461 to 464.
- (2) The assessment manager is the respondent for the appeal.
- (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
- (4) Any submitter may elect to become a co-respondent for the appeal.
- (5) If the appeal is about a concurrence agency's response, the concurrence agency is a correspondent for the appeal.
- (6) If the appeal is only about a concurrence agency's response, the assessment manager may apply to the court to withdraw from the appeal.
- (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
- (8) A person to whom a notice of appeal is required to be given under section 482 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
- (9) For an appeal under section 465—
 - (a) the assessment manager is the respondent; and
 - (b) if the appeal is started by a concurrence agency that gave the assessment manager a notice under section 385—the person asking for the extension the subject of the

- appeal is a co-respondent; and
- (c) any other person given notice of the appeal may elect to become a co-respondent.
- (10) For an appeal under section 466—
- (a) the responsible entity for making the change to which the appeal relates is the respondent; and
- (b) if the responsible entity is the assessment manager—
- (i) if the appeal is started by a person who gave a notice under section 373 or a pre-request response notice—the person who made the request for the change is a co-respondent; and
- (ii) any other person given notice of the appeal may elect to become a correspondent.
- (11) For an appeal under section 467, the respondent is the entity given notice of the appeal.

486 Respondent and co-respondents for appeals under div 9

- (1) For an appeal under section 468 or 469—
- (a) the compliance assessor is the respondent; and
- (b) if the compliance assessor is a nominated entity of a local government and the appeal relates to a matter required by a local government—the local government is a co-respondent.
- (2) However, if the appeal is only about a matter required by the local government, the compliance assessor may apply to the court to withdraw from the appeal.
- (3) For an appeal under section 470—
- (a) the entity that gave the notice to which the appeal relates is the respondent; and
- (b) if the entity mentioned in paragraph (a) is a nominated entity of a local government and the local government did not agree to the request mentioned in section 470(1)—the local government is a co-respondent.
- (4) However, if the appeal is only about the local government's refusal of the request, the entity that gave the notice to which the appeal relates may apply to the court to withdraw from the appeal.

487 Respondent and co-respondents for appeals under div 10

- (1) This section applies if an entity is required under section 484 to be given a notice of an appeal.
- (2) The entity given notice is the respondent for the appeal.
- (3) However, if under a provision of the section more than 1 entity is required to be given notice; only the first entity mentioned in the provision is the respondent.
- (4) The second entity mentioned in the provision may elect to be a co-respondent.

488 How an entity may elect to be a co-respondent

An entity that is entitled to elect to be a co-respondent to an appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.

489 Minister entitled to be party to an appeal involving a State interest

If the Minister is satisfied an appeal involves a State interest, the Minister may, at any time before the appeal is decided, elect to be a party to the appeal by filing in the court a notice of election in the approved form.

490 Lodging appeal stops particular actions

- (1) If an appeal, other than an appeal under section 465, 466 or 467, is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) If an appeal is about a condition imposed on a compliance permit, the development must not be started until the appeal is decided or withdrawn.
- (3) Despite subsections (1) and (2), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.

ATTACHMENT

OPTIONS**Option One**

That Council resolves to re-classify the area on Lot 6 on SP164062 extending from Luke Street to the northern boundary of 96-108 Springacre Road to 'Medium Value Rehabilitation Habitat', under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions. The remaining area classified as Bushland Habitat on Lot 6 on SP164062 remains unchanged.

Option Two

That Council resolves to refuse the applicant's request to re-classify the koala habitat classification on the site (reasons for refusal must be identified).

OFFICER'S RECOMMENDATION

That Council resolves to re-classify the area on Lot 6 on SP164062 extending from Luke Street to the northern boundary of 96-108 Springacre Road to 'Medium Value Rehabilitation Habitat', under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions. The remaining area classified as Bushland Habitat on Lot 6 on SP164062 remains unchanged.

COUNCIL RESOLUTION 2018/83

Moved by: Cr Paul Gollè

Seconded by: Cr Wendy Boglary

That Council resolves to refuse the applicant's request made under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions to reclassify the high value bushland habitat to medium value rehabilitation as the land classified as high value bushland habitat is appropriately designated on the Map of Assessable Development Area Koala Habitat Values.

CARRIED 10/1

Crs Karen Williams, Wendy Boglary, Peter Mitchell, Paul Gollè, Lance Hewlett, Julie Talty, Murray Elliott, Tracey Huges, Paul Gleeson and Paul Bishop voted FOR the motion.

Cr Mark Edwards voted AGAINST the motion.

6/08/2018

Officer: Brett Dibden
Contact: 3829 8954
Our Reference: ROL006039

Harridan Pty Ltd

Dear Madam

APPLICATION DETAILS

Application No:	ROL006039
Street Address:	14-20 Bonnie Street, Thornlands
Real Property Description:	Lot 6 on SP164062

I refer to your request to amend a koala habitat classification under Division 9 of the (now repealed) South East Queensland Koala Conservation State Planning Regulatory Provisions.

Please be advised that Council on 25th July 2018 resolved to refuse the request made under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions to re-classify the High Value Bushland Habitat to Medium Value Rehabilitation Habitat, as the land classified as High Value Bushland Habitat is appropriately designated on the Map of Assessable Development Area Koala Habitat values.

If you have any further queries in relation to the above, please do not hesitate to contact Brett Dibden on the above number.

Yours sincerely

Adam Webb
Principal Planner
Planning Assessment

City Planning & Assessment Customer Feedback

We value your feedback about the service provided by City Planning and Assessment.

Please take our quick survey below. We look forward to receiving your comments.

www.redland.qld.gov.au/yourfeedback



CLIENT	HARRIDAN PTY LTD
PROJECT	PLAN OF DEVELOPMENT
ADDRESS	BONNIE STREET, THORNLANDS
RPD	LOT 6 ON SP164062

NOTES
 Set-out dimensions and levels on this plan prepared for HARRIDAN PTY LTD on 23/08/16 are based on sketch provided by client.

Set out dimensions are based on design drawings supplied to the Surveyor at the time of carrying out the survey. The builder / contractor should verify all dimensions shown on this plan with the latest approved design drawings.

The builder should verify critical dimensions shown on this plan with the latest approved design drawings. Any discrepancies should be clarified in writing with SURVEY MARK prior to commencement of the work for confirmation of this survey.

The boundary location as shown on this plan is from information or marks placed by others, the verification of which does not form part of this survey.

SURVEY MARK can accept no responsibility for disturbance to any marks subsequent to leaving site and will accept no liability for the misuse of the information shown hereon.

LEGEND:

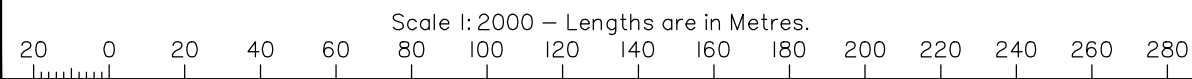
	Proposed Building Envelope
	Koala Zone

J	Lot 1 BLE amended	04/02/19	APW		
H	Lot 1 BLE added	30/01/19	APW		
G	Trees added	21/01/19	APW	LEH	LEH
F	Revised BDY's	14/01/19	APW	LEH	LEH
E	Revised BDY's	10/01/19	APW	LEH	LEH
D	Revised BDY's	14/06/18	APW	LEH	LEH
C	Revised BLE and BDY's	16/05/18	APW	LEH	LEH
B	Revised BLE and BDY's	09/05/18	APW	LEH	LEH
A	Initial issue to client	20/02/18	APW	LEH	LEH

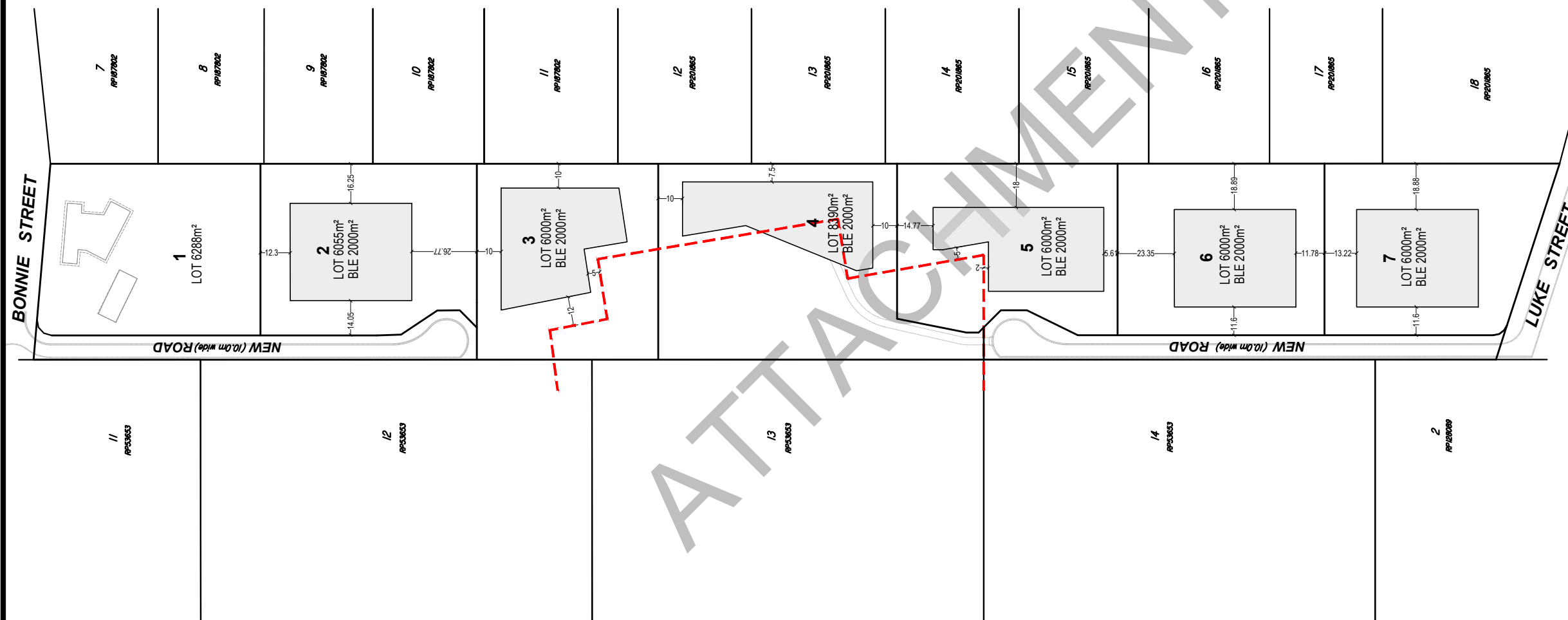
LOCALITY	THORNLANDS	LOCAL AUTHORITY	REDLAND CITY
HEIGHT DATUM	-	MAP REFERENCE	9542-14343
HEIGHT ORIGIN	-	SCALE	1:2000 (A3)
MERIDIAN	SP164062	CONTOUR INTERVAL	-

SURVEYMARK
 LAND SURVEYING URBAN PLANNING

Unit 3, 1 Fort Lane, Milton QLD 4064 PO Box 1328, Milton QLD 4064
 e: info@surveymark.com.au p: 07 3188 9020 m: 0403 133 500



PLAN REF	3515-0011	REV	J	SHEET	1	OF	1
SURVEYED	RGB 10.10.17	DRAWN	APW 20/02/18	CHECKED	LEH 20/02/18		



CLIENT	HARRIDAN PTY LTD
PROJECT	PLAN OF DEVELOPMENT
ADDRESS	BONNIE STREET, THORNLANDS
RPD	LOT 6 ON SP164062

NOTES
 Set-out dimensions and levels on this plan prepared for HARRIDAN PTY LTD on 23/08/16 are based on sketch provided by client.

Set out dimensions are based on design drawings supplied to the Surveyor at the time of carrying out the survey. The builder / contractor should verify all dimensions shown on this plan with the latest approved design drawings.

The builder should verify critical dimensions shown on this plan with the latest approved design drawings. Any discrepancies should be clarified in writing with SURVEY MARK prior to commencement of the work for confirmation of this survey.

The boundary location as shown on this plan is from information or marks placed by others, the verification of which does not form part of this survey.

SURVEY MARK can accept no responsibility for disturbance to any marks subsequent to leaving site and will accept no liability for the misuse of the information shown hereon.

LEGEND:

- Proposed Building Envelope
- Koala Zone

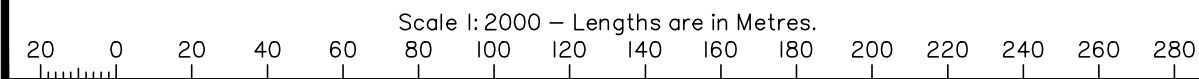
D	Revised BDY's	14/06/18	APW	LEH	LEH
C	Revised BLE and BDY's	16/05/18	APW	LEH	LEH
B	Revised BLE and BDY's	09/05/18	APW	LEH	LEH
A	Initial issue to client	20/02/18	APW	LEH	LEH
REV	DESCRIPTION	DATE	DRAWN	CHECKED	APPROVED

LOCALITY	THORNLANDS	LOCAL AUTHORITY	REDLAND CITY
HEIGHT DATUM	-	MAP REFERENCE	9542-14343
HEIGHT ORIGIN	-	SCALE	1:2000 (A3)
MERIDIAN	SP164062	CONTOUR INTERVAL	-

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PLAN REF	3515-0011	REV	D	SHEET	1	OF	1
SURVEYED	RGB 10.10.17	DRAWN	APW 20/02/18	CHECKED	LEH 20/02/18		



13.3 KOALA SPRP DIVISION 9 REQUEST - 14-20 BONNIE STREET, THORNLANDS - ROL006039**Objective Reference:****Authorising Officer:** Louise Rusan, General Manager Community & Customer Services**Responsible Officer:** Chris Vize, Service Manager Planning Assessment**Report Author:** Brett Dibden, Planning Officer**Attachments:**

1. Aerial Map
2. Koala Habitat Map
3. Recommended Change to Koala Habitat Map

PURPOSE

This request for reclassification of habitat type under Division 9 of the South East Queensland Koala State Planning Regulatory Provisions (Koala SPRP) is referred to Council for determination.

The applicant, Harridan Pty Ltd C/- Carolyn Mellish CMM Planning, has lodged a request in accordance with the requirements of Division 9 of the Koala SPRP and is associated with a code assessable development application for Reconfiguring a Lot (ROL) (1 into 7 lots plus road) at 14-20 Bonnie Street, Thornlands, owned by Mr M C Mellish. The ROL will be decided separately to the Division 9 request and is not assessed within this report.

The request has been assessed in accordance with Division 9 of the Koala SPRP and the Sustainable Planning Act 2009 and it is recommended that the request be approved.

BACKGROUND

A ROL application for 1 into 7 lots plus road was submitted to Council on 8 April 2016 (ROL006039), with a request under Division 9 of the Koala SPRP to re-classify the koala habitat on the site.

ISSUES**Site & Locality**

The site has an area of 49,180m² and is currently improved by a single dwelling, a shed and a private swimming pool. The site is heavily vegetated in the northern two-thirds of the site apart from the existing dwelling location, and is more sparsely vegetated for the southern one-third of the site. The land falls north towards the Bonnie Street frontage.

The site is located between Bonnie Street to the north and Luke Street to the south (refer Attachment 1). The land to the north and south is zoned Park Residential and is made up of lots of a similar size to that proposed, with most of the lots developed with dwellings. The land adjoining to the west is zoned Rural Non-Urban and Environmental Protection, with poultry farming predominant on the rural land.

Koala Habitat Mapping

The site is classified as having both High Value Bushland Habitat and Medium Value Rehabilitation Habitat on site (refer Attachment 2).

Proposed Changes

The applicant has lodged a request to re-classify the area on the site identified as High Value Bushland Habitat to Medium Value Rehabilitation Habitat. The request is supported by an ecological assessment report prepared by Gondwana Ecology Group. This report states that the areas of proposed change from High Value Bushland Habitat to Medium Value Rehabilitation are either largely devoid of koala habitat trees having been cleared for more than 10 years, other than some isolated regrowth trees (northern part of the site), or dominated by regrowth wattle and she-oak (central area). The surrounding area to the west is dominated by open paddocks with a selectively cleared canopy typical of rural lots rather than areas retaining a full native ecosystem cover that is reflective of bushland. Specifically, the closer trees are to existing infrastructure, the more modified the environment and, although these areas retain koala trees, there is a greater alignment with the rehabilitation definition. The report found that there are no values distinct within the proposed rehabilitation areas that vary from the surrounding values already mapped as rehabilitation habitat.

Assessment

Division 9, 9.1(4) of the Koala SPRP states that an assessment manager may determine that the land is either an area where koalas are generally not present, or is of a koala habitat type different to that which is mapped. On the evidence provided by the applicant and observations during site inspections, it is considered that the site is an area where koalas may be present. Therefore, it must be established that the area does not meet the definition of bushland habitat to change the mapped area. 'Bushland habitat' is defined in the Koala SPRP as:

- 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.*

In the initial reports provided by the applicant, it was asserted that the "actual koala value" of the land is limited. This is not supported by the supplementary report and site inspection undertaken by Council officers. The identification of 236 non-juvenile koala habitat trees (NJKHT) within the development footprint is not characteristic of limited koala habitat value.

The **northern** part of the bushland habitat area (adjacent to 76-94 Springacre Road) meets the criteria as set out in the definition of bushland habitat in the Koala SPRP:

- It is within 50 metres of surrounding bushland habitat.

- It is characterised by contiguous native vegetation, including remnant and non-remnant or regrowth vegetation – there are at least 50 NJKHT and other native trees in this area, that form an open canopy and connect to koala habitat of varying density to the north, east, south and west.
- The landcover composition, as the tree plot, current satellite mapping and in-situ observations indicate, is predominantly open woodland forest containing numerous NJKHT, many of which are significant, remnant and veteran trees.
- As identified by the tree survey, the area contains an assortment of eucalypt species, including Bloodwood, Scribbly Gum and Stringybark. Other koala habitat trees are also present in large numbers, including Swamp Box and Paperbark.
- The area is not a plantation forest.

Consequently, it is recommended that the northern part remain as bushland habitat.

Conversely, the **southern** part of the bushland habitat area, does not represent bushland habitat as defined in the Koala SPRP:

- Native vegetation is isolated and dominated by species other than koala habitat trees, such as she-oak and wattle; approximately 37 NJKHT were identified in this area and are not in close proximity to form a canopy or woodland.
- Landcover is composed primarily of weed species and grasses and cannot be characterised as “predominantly forest”, as is required under the definition.
- The area does not contain an assortment of eucalypt species, with only a small number of Bloodwood identified in the tree survey. However, other koala habitat trees are present, including Swamp Box and Paperbark.

The next category down from bushland habitat is ‘Rehabilitation Habitat’, which is defined as:

- 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.*

Whilst the southern section of the mapped bushland habitat does not meet the statutory criteria for “bushland habitat”, it still provides food, shelter, movement and dispersal for koalas. The identified NJKHTs are in sufficient numbers to provide an important link, or stepping stone, between the northern habitat and the substantive corridor to the south. It is also noted that the area of bushland habitat is identified as an Enhancement Corridor that connects to the Erapah Creek Regional Riparian Corridor, identified in the RCC Wildlife Connections Plan 2017 – 2027. This means it has been identified as an important area that exhibits sufficient ecological value and linkages that would be an appropriate target for strategic enhancement to strengthen Established Corridors. In this regard, the southern section is considered to best fit the criteria as ‘rehabilitation habitat’ as the habitat consists mostly of scattered trees and grass, while still providing food and shelter trees and movement opportunities for koalas.

In this regard, it is recommended that the southern part of the mapped bushland habitat be reclassified from bushland habitat to rehabilitation habitat from Luke Street to the northern boundary of 96-108 Springacre Road (refer Attachment 3). The northern section of the mapped bushland habitat should remain as is currently classified.

Infrastructure Charges

Not applicable.

State Referrals

The request does not trigger any referrals.

Submissions

Not applicable.

STRATEGIC IMPLICATIONS**Legislative Requirements**

The request has been assessed in accordance with Division 9 of 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, any party can commence declaratory proceedings to the Court against this decision of Council.

Financial

Any party can commence declaratory proceedings to the Court against this decision of Council. Such proceedings would incur legal and Court costs.

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

There are no social issues associated with the request.

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, in particular Council's Environmental Assessment Team. Advice has been received from relevant officers and forms part of the assessment of the application.

OPTIONS**Option One**

That Council resolves to re-classify the area on Lot 6 on SP164062 extending from Luke Street to the northern boundary of 96-108 Springacre Road to 'Medium Value Rehabilitation Habitat', under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions. The remaining area classified as Bushland Habitat on Lot 6 on SP164062 remains unchanged.

Option Two

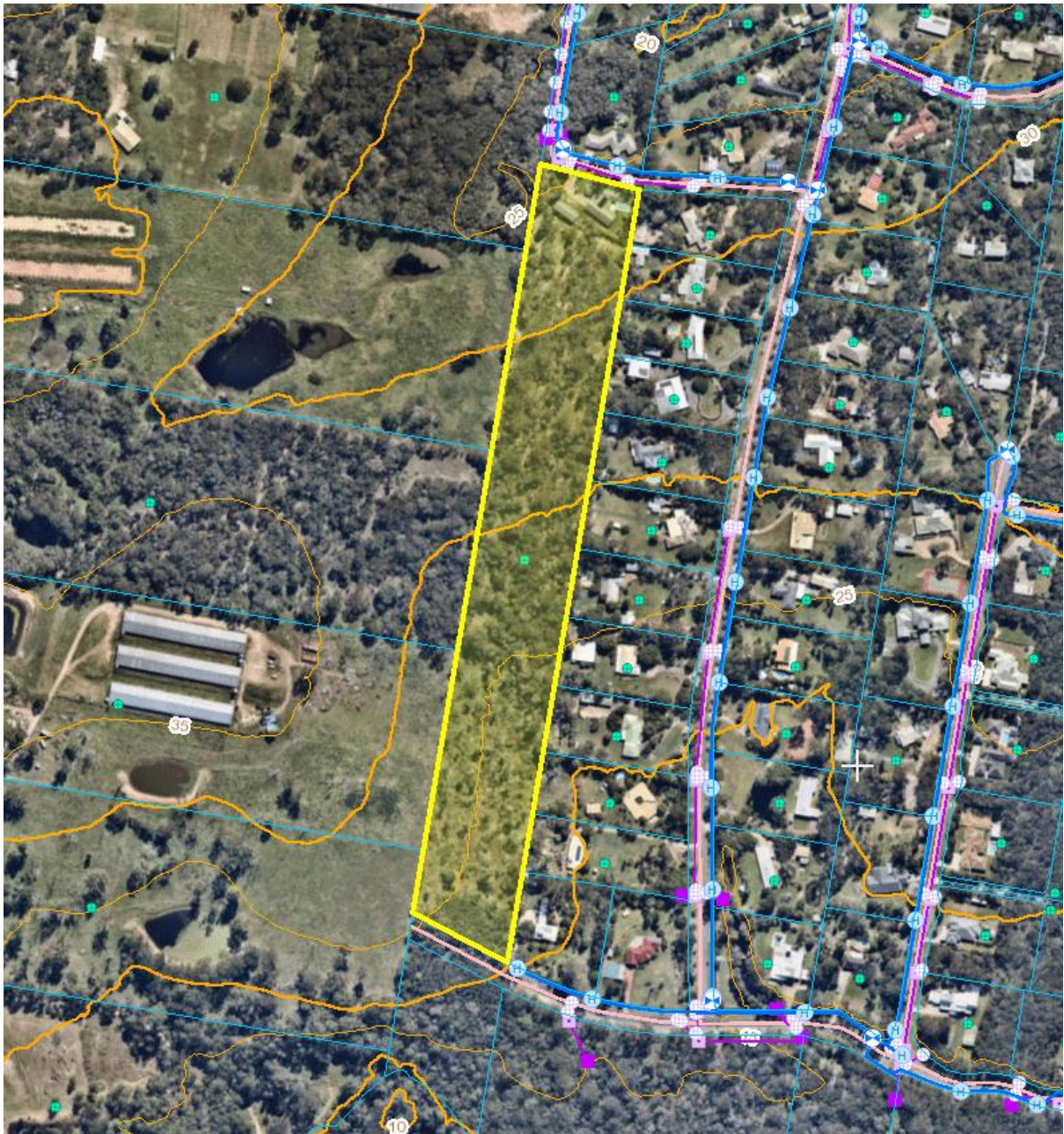
That Council resolves to refuse the applicant's request to re-classify the koala habitat classification on the site (reasons for refusal must be identified).

OFFICER'S RECOMMENDATION

That Council resolves to re-classify the area on Lot 6 on SP164062 extending from Luke Street to the northern boundary of 96-108 Springacre Road to 'Medium Value Rehabilitation Habitat', under Division 9 of the South East Queensland Koala Conservation State Planning Regulatory Provisions. The remaining area classified as Bushland Habitat on Lot 6 on SP164062 remains unchanged.

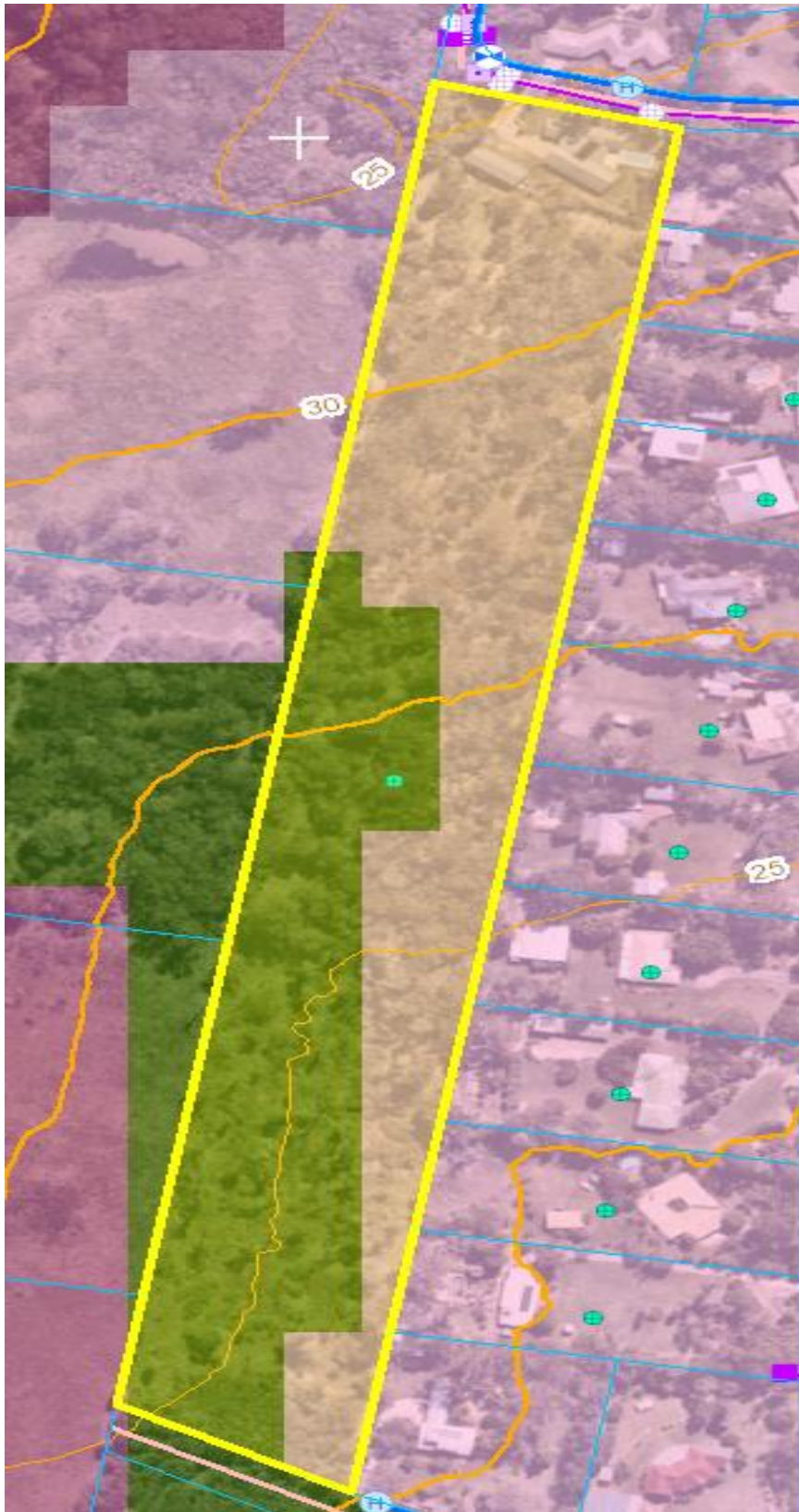
ATTACHMENT 6

ROL006039 – Attachment 1 – Aerial



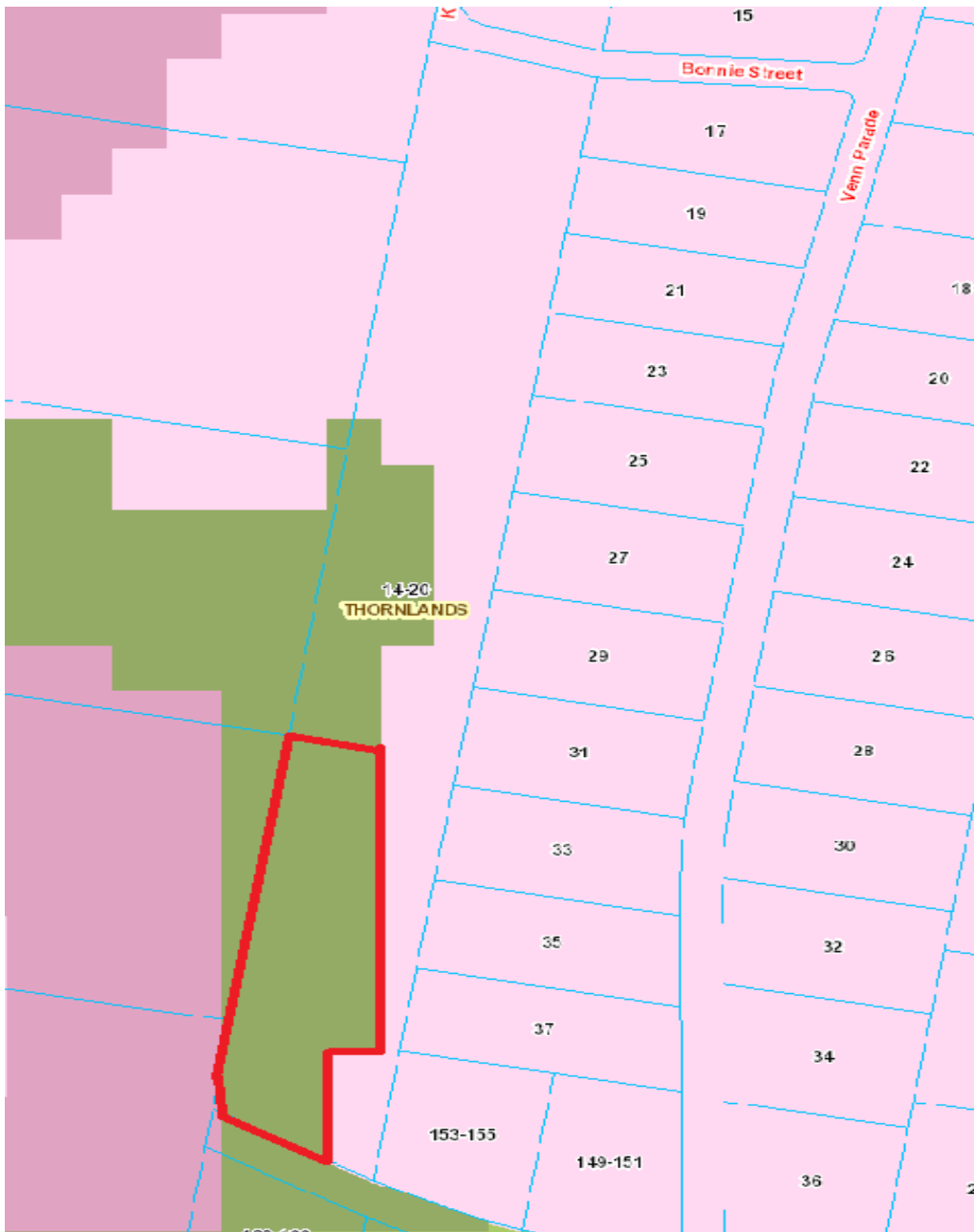
A

ROL006039 – Attachment 2 – Koala Habitat Values



NT 6

ROL006039 – Attachment 3 – Area of Bushland Habitat recommended to be reclassified as Rehabilitation Habitat



6

Attachment 7 - WCP Enhancement Corridor



<u>ASSESSMENT MANAGER CONDITIONS</u>	<u>TIMING</u>
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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>
--

- | | |
|--|---|
| <ol style="list-style-type: none"> 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
Plan of Development	3515-0011/F	Surveymark	14/01/2019
Stormwater Management Plan			
Vegetation Management and Rehabilitation Plan			
Arborist Report			
Offset Delivery Plan			
Ecological Assessment Report		Gondwana Ecology	

Table 1: Approved Plans and Documents

- | | |
|---|--|
| <ol style="list-style-type: none"> 3. Submit to Council a Survey Plan for approval, in accordance with the approved plans, following compliance with all relevant conditions and requirements of this approval | Prior to expiry of the currency period for the approved development. |
|---|--|

<u>Existing Structures</u>

- | | |
|--|---|
| <ol style="list-style-type: none"> 4. 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>Road Naming</u>

- | | |
|--|--------------------------------------|
| <ol style="list-style-type: none"> 5. Submit to Council, and gain approval for, 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. | Prior to preparing your Survey Plan. |
|--|--------------------------------------|

<u>Split Valuation</u>

- | | |
|--|----------------------------------|
| <ol style="list-style-type: none"> 6. Pay a contribution to Council for the purposes of paying the State Government Split Valuation Fees. The current value of the contribution is \$37.80 (excl GST) per allotment (2018/2019 Financial Year). The amount of | Prior to Council approval of the |
|--|----------------------------------|

<p>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>Survey Plan.</p>
<p><u>Survey Control Information</u></p>	
<p>7. Include on the survey plan connections from at least two (2) separate corners to two (2) Registered Permanent Survey Marks.</p>	<p>As part of the request for assessment of the Survey Plan.</p>
<p>8. Survey and present all asset infrastructure in accordance with the Redlands Planning Scheme. The horizontal datum for all work must be Map Grid Australia (MGA) 94 Zone 56 and the vertical datum must be Australian Height Datum (AHD). Permanent Survey Mark (PSM) information can be obtained from Queensland Globe: https://qldglobe.information.qld.gov.au/</p>	<p>As part of the request for assessment of the Survey Plan.</p>
<p>9. Place one (1) new Permanent Survey Mark (PSM) in the approximate location at end of Luke Street adjacent to the new Lot 6. The exact location is to be determined by the developer's survey consultant and in accordance with the following:</p> <ul style="list-style-type: none"> • secure each PSM site from works and make suitable for Global Navigation Satellite System (GNSS) observations • place PSM as a standard brass plaque set in concrete to a minimum depth of 600mm • level each PSM placed to a minimum 4th Order standard. 	<p>As part of the request for assessment of the Survey Plan.</p>
<p>10. Supply a completed Form 6 (PSM Sketch and Data Sheet) with the Survey Plan for any new PSM placed. PSM must meet the requirements of the Redlands Planning Scheme Part 11 Policy 9, with particular reference to 9.2.7.2 and 9.2.7.4. Ensure the Form 6 includes the:</p> <ul style="list-style-type: none"> • mark's AHD Reduced Level (RL) • vertical origin mark number • RL of the vertical origin mark adopted • mark's MGA coordinates (easting and northing) • horizontal and vertical accuracy to which the mark has been fixed • method by which the mark has been fixed in height and position. 	<p>As part of the request for assessment of the Survey Plan.</p>
<p>11. Comply with the requirements of the Survey and Mapping Infrastructure Act 2003.</p>	<p>As part of the request for assessment of the Survey Plan.</p>
<p><u>Utility Services</u></p>	
<p>12. Relocate any services (e.g. water, sewer, electricity, telecommunications and roofwater) that are not wholly located within the lots that are being serviced.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<p>13. Pay the cost of any alterations to existing public utility mains, services or</p>	<p>At the time the</p>

<p>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.</p>	<p>works occur, or prior to Council approval of the Survey Plan, whichever is the sooner.</p>
<p>14. Design and install underground electricity and telecommunication conduits to service lots 1 to 6 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 from the service provider for the supply of electricity and telecommunication services.</p> <p><i>Note: you need to engage the services of a telecommunications carrier to install and operate a telecommunications network. It is recommended you do this immediately after receiving this development approval to ensure a connection will be available to future residents. To find out if NBN is currently available for this development, visit the NBN website: https://www2.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html</i></p>	<p>Prior to Council approval of the Survey Plan.</p>
<p><u>Land Dedication and Design</u></p>	
<p>15. Dedicate land as shown on the approved Plan of Development (Plan Ref. No. 3515-0011/F), for the purpose of road. Dedication is to be undertaken at no cost to Council.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<p><u>Access and Roadworks</u></p>	
<p>16. Provide an updated Service Vehicle Manoeuvring Plan for the proposed cul-de-sacs, which demonstrates compliance with Redlands Planning Scheme Policy 9 - Infrastructure Works, Chapter 5 – Road and Path Design, or other acceptable standard.</p> <p>Non-standard road design may be required, subject to engineering requirements and standards.</p>	<p>As part of the application for operational works.</p>
<p>17. 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>18. 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><u>Stormwater Management</u></p>	
<p>19. Convey roof water and surface water in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management to a lawful point of discharge.</p>	<p>Prior to on maintenance or Council approval of the Survey Plan, whichever is</p>

	<p>the sooner.</p> <p>Ongoing condition.</p>
<p>20. 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>21. Submit to Council, and receive Operational Works approval for, a stormwater plan and report that addresses both quality and quantity, in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management, and the following:</p> <ul style="list-style-type: none"> • Detailed engineering designs including calculations for the stormwater drainage system. 	<p>As part of the application for Operational Works or prior to Council approval of the Survey Plan, whichever is the sooner.</p>
<p><u>Environmental and Vegetation Management</u></p>	
<p>22. Provide an updated Ecological Assessment Report, including a tree schedule and tree plot, which confirms the location and number of koala habitat trees to be removed.</p>	<p>As part of the application for Operational Works.</p>
<p>23. Submit to Council, and receive Operation Works approval for, a Vegetation Management and Rehabilitation plan, prepared by a suitably qualified ecologist, that addresses the following:</p> <ul style="list-style-type: none"> ▪ Provide details of all enhancement planting and weed removal proposed in areas outside the approved building envelopes to improve habitat condition and function, and promote wildlife movement through the site, in accordance with Specific Outcome S2.1(2)(a) of the Habitat Protection Overlay Code ▪ Specific to koala habitat and movement, address the relevant requirements of Division 6, Table 6, Column 2 of the Koala SPRP ▪ The plan must include, at a minimum, details of: <ul style="list-style-type: none"> - Planting locations, density and species - Any proposed topsoiling and mulching - Weed removal and control - Maintenance and monitoring. 	<p>As part of the application for operational works.</p>
<p>24. Submit an Arborist Report in relation to all trees to be retained within and adjacent to proposed development areas (including proposed new roads, driveways, access and services), prepared by a suitably qualified arborist (AQF Level 5). The report must address the following:</p> <ul style="list-style-type: none"> • Any pruning must be in accordance with Australian Standard 	<p>As part of the application for Operational Works.</p>

<p>AS4373:2007 - Pruning of Amenity Trees</p> <ul style="list-style-type: none"> • Tree assessment must be in accordance with Australian Standard AS4970-2009 - Protection of Trees on Development Sites • Construction of driveways and services to the development envelopes of all proposed lots • Impacts of road construction on mapped koala habitat on the adjacent property at 40-60 Springacre Road (11RP53653) and in the Bonnie Street road reserve • Identify potential development impacts on trees and provide recommendations to manage and protect trees (including any possible design modifications that reduce impacts on trees) • Provide a Tree Protection Plan (drawing) showing the Tree Protection Zones (TPZ) of trees and other protection measures relative to proposed works. 	
<p>25. Protect those trees identified on the approved plans to be retained by implementing tree protection measures in accordance with Australian Standard AS4970-2009 – Protection of Trees on Development Sites. All tree protection measures must be in place prior to the commencement of development works.</p>	<p>Prior to works commencing and during the construction phase.</p>
<p>26. Designate Building Envelopes on Lots 2 - 6 in accordance with the following:</p> <ol style="list-style-type: none"> a) The development envelopes must be sited as per the approved Plan of Development. The designated building envelope areas must be pegged on-site, prior to the commencement of any approved vegetation clearing and construction works b) A survey plan by a licensed surveyor must be submitted to Council prior to Council approval of the Survey Plan. The survey plan must identify the location of the designated building envelopes c) All buildings, structures, car parking, service facilities, private open space, on-site waste disposal, storage and associated tree clearing of all uses and other development must be located entirely within the designated building envelopes, except for access driveways and services that should be co-located where possible. <p>All native vegetation outside the designated building envelopes is protected (including replanted vegetation). Native vegetation outside the building envelopes can only be removed with the approval of the State government or Council. The definition of native vegetation includes native vegetation whether living, dead or fallen in-situ.</p>	<p>As identified in the condition.</p> <p>Ongoing condition.</p>
<p>27. Demonstrate, on the civil drawings, how the road extension and installation of services within the Luke Street road reserve will be designed and located to avoid the clearing of non-juvenile koala habitat trees in Bushland Habitat, in accordance with Division 6, Table 6, Column 2(1), of the Koala SPRP.</p> <p>Non-standard road design may be required, subject to engineering requirements and standards.</p>	<p>As part of the application for operational works.</p>
<p><u>Fauna Management</u></p>	
<p>28. Engage a qualified Fauna Spotter/Wildlife Consultant to protect and manage fauna on the development site. They must inspect the whole site for potential habitat, including vegetation approved for removal and any other habitat feature, advise contractors when it is appropriate to commence works and</p>	<p>Prior to the removal of any vegetation associated with</p>

<p>supervise all clearing works.</p> <p>An accredited Fauna Spotter/Wildlife Consultant is a person or company holding a current Rehabilitation Permit – Spotter Catcher issued by the Department of Environment and Science under the <i>Nature Conservation (Administration) Regulation 2017</i>.</p> <p><i>Note: there are specific requirements and restrictions regarding Koalas, including relocation of animals that are injured or sick. Consult with the Department of Environment and Science for further information.</i></p>	<p>the development and during the construction phase.</p>
<p>29. Clearing of native vegetation must be undertaken sequentially and in accordance with Division 6, Table 6, Column 2, to:</p> <ul style="list-style-type: none"> ▪ Ensure wildlife, particularly koalas, has sufficient time to move safely from the areas being cleared ▪ Maintain habitat links to allow wildlife to move from areas being cleared ▪ Avoid clearing vegetation in which wildlife is present. <p><i>Note: clearing must be undertaken only under the guidance of a certified Fauna Spotter/Wildlife Consultant.</i></p>	<p>During any approved Operational Works involving vegetation clearing.</p>
<p>30. Provide pre and post-clearing reports from the certified Fauna Spotter/Wildlife Consultant concerning fauna management on the development site.</p>	<p>Prior to On Maintenance or Council approval of the Survey Plan, whichever is the sooner.</p>
<p>31. Any new fencing along lot boundaries must be Koala Friendly, as identified in the Koala Sensitive Design Guideline: A guide to koala sensitive measures for planning and development activities (November 2012), produced by the Qld Department of Environment and Heritage.</p> <p><i>Note: the Guideline is available from the Department of Environment and Science library catalogue: https://qldgov.softlinkhosting.com.au/liberty/libraryHome.do</i></p>	<p>Prior to Council approval of the Survey Plan and ongoing.</p>
<p>32. Fauna-proof fencing of all building envelopes must be constructed so as to enclose and restrict all domestic animals within the perimeters of the building envelopes.</p>	<p>Prior to Council approval of the Survey Plan and ongoing.</p>
<p><u>Offsets and Rehabilitation Works</u></p>	
<p>33. Provide an environmental offset for koala habitat in accordance with the <i>Environmental Offsets Act 2014</i>, either:</p> <ul style="list-style-type: none"> a) A land-based offset, in accordance with sections 2.3.1.1 and 2.3.1.6 of the Queensland Environmental Offsets Policy (Version 1.6); or b) A financial settlement offset, in accordance with section 2.3.2 of the Queensland Environmental Offsets Policy (Version 1.6); or c) A combination of offset (a) and offset (b). 	<p>Prior to Council approval of the Survey Plan or On Maintenance for Operational Works, whichever is</p>

<p><i>Note: a land-based offset is the preferred offset mechanism for this development, with offset planting undertaken on the impact site to the greatest extent practicable.</i></p>	<p>the sooner (for a land-based offset); or alternatively, prior to any development works taking place (for a financial settlement offset).</p>
<p>34. Provide a Notice of Election in the approved form, in accordance with section 2.4 of the Queensland Environmental Offsets Policy (Version 1.6), which details the proposed offset delivery approach.</p> <p>The approved form is EOD1 – Environmental Offsets Delivery Form 1: Notice of Election and Advanced Offset Details.</p> <p>The following, additional approved forms must be provided: <i>For a land-based offset:</i></p> <ul style="list-style-type: none"> • EOD2 – Environmental Offsets Delivery Form 2: Offset Delivery Plan Details* • EOD3 – Environmental Offsets Delivery Form 3: Offset Area Details • EOD4 – Environmental Offsets Delivery Form 5: Habitat Quality Details <p><i>For a financial settlement offset:</i></p> <ul style="list-style-type: none"> • EOD4 – Environmental Offsets Delivery Form 4: Financial Settlement Details <p><i>Note: the Offset Delivery Plan must specify the legal security mechanism for any land-based offset, as per ss 18 and 29 of the Environmental Offsets Act 2014</i></p>	<p>Prior to any development works taking place.</p>
<p>35. Obtain approval from Council, as the administering agency, for the Offset Delivery Plan and Legal Security mechanism (land-based offset).</p>	<p>Prior to Council approval of the Survey Plan or On Maintenance for Operational Works, whichever is the sooner.</p>
<p><u>Waste Management</u></p>	
<p>36. 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 3 and 4. 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 	<p>Prior to Council approval of the Survey Plan.</p>

<ul style="list-style-type: none"> any swale drainage or existing/proposed driveway. Marked 'bin service bay' in letters of 200mm height. 	
<u>Water and Wastewater</u>	
<p>37. Connect all lots to the existing reticulated water system in accordance with the SEQ Water Supply and Sewerage Design and Construction Code and the Redlands Planning Scheme Policy 9 – Infrastructure Works.</p>	Prior to Council approval of the Survey Plan.
<u>Excavation and Fill</u>	
<p>38. Apply to Council and obtain Operational Works approval for any earthworks associated with the reconfiguration, including verge earthworks. Design and construct all retaining structures in accordance with AS4678:2002 Earth-retaining Structures, in particular the minimum 60 year design life requirements.</p>	As part of the application for Operational Works.
<u>Sediment and Erosion Control</u>	
<p>39. Design, implement and maintain measures and practices in accordance with "Best Practice Erosion and Sediment Control" published by the International Erosion Control Association (Australasian Chapter) (2008).</p>	During the construction phase.
<u>Landscaping Works</u>	
<p>40. Denote the location and species of any street tree plantings on the Vegetation Management and Rehabilitation Plan. Street tree planting must be undertaken in accordance with the Redlands Planning Scheme Landscape Code.</p> <p>Alternatively, pay to Council a monetary contribution for street tree planting for [number of trees] street trees. The contribution must be calculated in accordance with Redlands Planning Scheme Policy 3, Chapter 3 – Landscaping and must be paid at the rate current at the time of payment under Council's Fees and Charges Schedule. The current rate is \$177.00 per tree (2018/2019 Financial Year).</p>	As part of the application for Operational Works.

ADDITIONAL APPROVALS

The following further **Development Permits** are necessary to allow the development to be carried out.

- Operational Works approval is required for the following works as detailed in the conditions of this approval:
 - Stormwater
 - Road works
 - Waste management
 - Earthworks

Further approvals, other than a Development 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 07 3829 8999.

- **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**

Redland City Council will be transitioning to ADAC XML submissions for all asset infrastructure once the Redlands draft City Plan has been adopted. While current Redland Planning Scheme Policies do not mandate its use, RCC encourages the utilisation of this methodology for submissions.

- **Plan Sealing Information**

To expedite the processing of survey plans, a survey plan checklist is available on Council's website at:

https://www.redland.qld.gov.au/info/20016/planning_and_development/348/forms_for_planning_and_development

You should complete this checklist and submit it to Council with your survey plan(s).

- **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.

- **Flying Fox Roosts**

Some locations within Redland City Council are mapped as an Urban Flying Fox Mapped area, and/or are locally known as regular/occasional roost sites. Unauthorised disturbance to flying

fox roosts is not permitted under Section 88C of the Nature Conservation Act 1992. Any works in the vicinity will need to be confined to the period from February to August to avoid conflict with the breeding season. The state publishes relevant advice in the Flying-Fox Roost Management Guideline 2013 at:

<https://www.ehp.qld.gov.au/wildlife/livingwith/flyingfoxes/roost-management.html>

If any disturbance is proposed, the owner will need to obtain a Damage Mitigation Permit from the state Department of Environment and Science.

Grey-Headed Flying Foxes have been observed in Redland City. Any proposed disturbance of this species needs to be referred to the Commonwealth Department of Environment as the species is classified as Vulnerable under the Environment Protection and Biodiversity Conservation Act (EPBC).

- **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**

The *Aboriginal Cultural Heritage Act 2003* requires anyone who carries out a land use activity to exercise a duty of care. Further information on cultural heritage duty of care is available on the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) website: <https://www.datsip.qld.gov.au/resources/datsima/people-communities/cultural-heritage/cultural-heritage-duty-care.pdf>

The DATSIP has established a register and database of recorded cultural heritage matters, which is also available on the Department's website: <https://www.datsip.qld.gov.au/people-communities/aboriginal-torres-strait-islander-cultural-heritage/cultural-heritage-search-request>

Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) is the registered cultural heritage body in the Redland City local government area. It is recommended you consult with QYAC in relation to aboriginal and cultural heritage matters prior to the commencement of works on site. QYAC can be contacted on 07 3415 2816 or admin@QYAC.net.au

Should any aboriginal, archaeological or historic sites, items or places be identified, located or exposed during construction or operation of the development, the *Aboriginal and Cultural Heritage Act 2003* requires all activities to cease. Please contact DATSIP for further information.

- **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.

- **Environmental Offsets – Notice of Election**

Where the Agreed Delivery Arrangement determined through a Notice of Election includes a land-based offset, the offset must achieve a conservation outcome as per s11 of the Environmental Offsets Act 2014. To achieve that end, the Agreed Delivery Arrangement will be subject to a minimum 5 year maintenance period, submission of annual and final Ecologist

Reports and periodic inspections by Council Officers.

- **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.

DRAFT
ATTACHMENT 8

AMENDED APPENDIX A

The Respondent's proposed additional grounds of refusal

- (1) The proposed development does not comply with Overall Outcome 4.17.7(2)(d)(i) of the Park Residential Zone Code as it does not minimise adverse impacts on environmental values and scenic values by maximising the retention of native plants, namely koala habitat.
- (2) The proposed development does not comply with Specific Outcome S2.3 of the Park Residential Zone Code as the proposed lots ~~are not compatible with the detached low-rise, semi-rural bushland setting of the zone and~~ do not have regard to bio-physical constraints, namely koala habitat such as habitat values.
- (3) The proposed development does not comply with Specific Outcome S3.2 of the Park Residential Zone Code as it does not maximise the retention of native plants within the lot or premises, specifically ~~native mature trees and groups of trees~~ koala habitat.
- (4) The proposed development does not comply with Overall Outcome 7.11.3(2)(e)(ii) of the Reconfiguration Code as the lots do not have an area and dimension consistent with any significant physical constraints of the land ~~including environmental values, landscape setting or natural hazards,~~ namely koala habitat.
- (5) The proposed development does not comply with Overall Outcome 7.11.3(2)(f)(ii) of the Reconfiguration Code as the reconfiguration design is not consistent with any significant physical constraints of the land, ~~including environmental values, landscape setting or natural hazards~~ namely koala habitat.
- (6) The proposed development does not comply with Overall Outcome 7.11.3(2)(j) of the Reconfiguration Code as the proposed lots do not maximise the retention, enhancement and the long-term management of environmental values, namely koala habitat, by ensuring –
 - (i) uses and development are suitably located; and
 - (ii) access and utility infrastructure provision minimise ~~visual scaring of the land and~~ the loss of environmental ~~or scenic~~ values, namely koala habitat.
- (7) The proposed development does not comply with Specific Outcome S1.1(1)(b) of the Reconfiguration Code as the reconfiguration design does not protect environmental values and functions ~~including habitat areas, corridors and waterways,~~ namely koala habitat.
- (8) The proposed development does not comply with Specific Outcome S1.6(4) of the Reconfiguration Code as the reconfiguration does not –
 - (b) protect, enhance and manage environmental values, namely koala habitat, and the viability of those values;
 - (c) result in lots of a shape and size suited to the topography and specific characteristics of the land, namely koala habitat.

- (9) The proposed development does not comply with Specific Outcome S2.6 of the Reconfiguration Code as the proposed lots are not of a size and shape that maximise opportunities to maintain, enhance and manage environmental values, [namely koala habitat](#).
- (10) The proposed development does not comply with Specific Outcome S4(1)(a)(i) of the Reconfiguration Code as the development envelopes do not achieve enhanced environmental ~~and scenic~~ outcomes, [namely the protection of koala habitat](#).
- (11) The proposed development does not comply with Overall Outcome 5.7.7(2)(a) of the Habitat Protection Overlay Code as it does not identify, protect and provide for the long-term management and enhancement of Environmental and Habitat Values, [namely koala habitat](#).
- (12) The proposed development does not comply with Overall Outcome 5.7.7(2)(b) of the Habitat Protection Overlay Code as development is not designed, sited and managed to protect Environmental and Habitat Values, [namely koala habitat](#), and achieve a net gain through enhancement plantings and offsets.
- (13) The proposed development does not comply with Overall Outcome 5.7.7(2)(c) of the Habitat Protection Overlay Code as it does not ensure the maximum retention of [koala habitat native vegetation](#) through innovative design solutions of development located in:
- (a) areas previously cleared of vegetation;
 - (b) areas not suitable for vegetation enhancement;
 - (c) areas of least environmental significance on the lot.
- (14) The proposed development does not comply with Overall Outcome 5.7.7(2)(d) of the Habitat Protection Overlay Code as it does not ensure development is designed and located at an appropriate scale and level of intensity to protect environmental and habitat values, [namely koala habitat](#).
- (15) The proposed development does not comply with Overall Outcome 5.7.7(2)(e) of the Habitat Protection Overlay Code as the outcomes for each of the following Habitat Categories are not met:

Koala Habitat

Outcome: The net gain of koala habitat through retention, planting and protection of koala habitat.

Action 1: Maximise retention of koala habitat trees;

Action 2: Ensure adequate buffers are in place between koala habitat trees and development to protect environmental and habitat values;

Action 3: Undertake replacement and/or enhancement planting as part of development to ensure a net koala habitat gain.

- (16) The proposed development does not comply with Specific Outcome S2.1(4)(b) of the

Habitat Protection Overlay Code as it does not ensure the location, design, scale and intensity of development maximises the retention of koala habitat trees ~~and native~~ [vegetation](#).

- (17) The proposed development does not comply with Specific Outcome S3.1(1) of the Habitat Protection Overlay Code, where proposed on H3 which applies where development is proposed on that part of the lot or premises shown on the State Koala Policy Overlay Map, as it does not protect, manage and enhance the habitat of koalas.

ATTACHMENT 9