

19.3 VICTORIA POINT LAND PTY LTD V REDLAND CITY COUNCIL (PLANNING AND ENVIRONMENT COURT APPEAL 4300/2019)

Objective Reference:**Authorising Officer:** David Jeanes, Acting General Manager Community & Customer Services**Responsible Officer:** Stephen Hill, Acting Group Manager City Planning & Assessment**Report Author:** Michael Anderson, Senior Appeals Planner
Charlotte Hughes, Acting Service Manager Planning & Assessment**Attachments:**

1. Draft conditions
2. Reasons for refusal
3. Indicative Master Plan
4. Koala mapping amendments
5. Victoria Point Retirement Code
6. Varied level of assessment
7. Referral agency response

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

To provide Council with an update on the Victoria Point Land Pty Ltd (Pradella) v Redland City Council (Council) Planning & Environment Court Appeal 4300/2019, which is a deemed refusal appeal. Council (the respondent) is required to confirm its position on the development application in the Planning & Environment Court appeal by 31 January 2020.

BACKGROUND

Council received an application consisting of three parts from Wolter Consulting Group:

- **PART A - Schedule 11 request under the *Planning Regulation 2017*:** The applicant has included a request under Schedule 11 Part 4 of the *Planning Regulation 2017* that, for the purposes of assessing and deciding this development application, part of the site which is currently mapped as bushland habitat is to be assessed as medium value rehabilitation habitat.
- **PART B - Preliminary approval for a material change of use:** A Preliminary Approval (PA) is sought for a material change of use (MCU) for a retirement facility and relocatable home park on land at 673–719 Redland Bay Road and 10 Double Jump Road, Victoria Point, owned by
- **PART C - Variation request:** The application includes a variation request to vary the operation of the City Plan v1 and establish the Victoria Point Retirement Code, which would be applicable to future development applications lodged under the PA.

The application has been assessed against the relevant provisions of the City Plan. The key issues identified in the assessment are:

- consistency with statutory planning framework
- land use intent

- consistency with the South West Victoria Point (SWVP) Local Plan
 - land use
 - site layout
- access and parking
- infrastructure
- bushfire
- density
- environmental values.

The above issues have been discussed in the report.

Council is to notify the parties whether it supports or opposes the approval of the development application, the subject of this appeal. If Council notifies that it opposes the approval of the development application, reasons for this opposition are to be provided.

Officers recommend that Council notify the parties that it:

- Supports the applicant's request under schedule 11 of the *Planning Regulation 2017*.
- Supports a preliminary approval application for a retirement facility only, subject to the conditions generally in accordance with those outlined in **Attachment 1**.
- Opposes the variation request to vary the effect of the City Plan, for the reasons outlined in **Attachment 2**.

The Appeal

The development application was lodged under the *Planning Act 2016* (PAct). Under Schedule 2 of PAct the application is a deemed refusal, meaning:

'a refusal that is taken to have happened if a decision has not been made when the following ends

- a) *for a development application, other than an application to which section 64 applies—the period, under the development assessment rules, for making a decision; '*

The decision making period for the application ended on 20 November 2019. The Notice of Appeal (NoA) was filed with the Planning & Environment Court on 28 November 2019. The NoA seeks the following orders:

- The appeal be allowed;
- The application be approved, subject to reasonable conditions;
- The Respondent pay the Appellant's costs of, and incidental to, the appeal and;
- Such further or other orders as the Court deems appropriate.

The identified grounds of appeal in the NoA are:

- a) for the part of the application that is a Variation Request, the variations sought:
 - i) are consistent with the rest of the Planning Scheme; and
 - ii) would not have any adverse effect on submission rights for later development applications;

- b) the application complies with the applicable assessment benchmarks;
- c) in the alternative, to the extent there is any non-compliance with an applicable assessment benchmark (which is not admitted):
 - i) conditions can be imposed to achieve compliance; and/or
 - ii) the application ought to be approved, notwithstanding any such non-compliance; and
- d) there are relevant matters that justify approval of the application.

Council is required to confirm its position on the development application in the Planning & Environment Court appeal by 31 January 2020.

Site History

A summary of the relevant planning applications over the subject site is provided below:

- *Court Order 729 of 2010*: Declared that the use of the land at 659–685 Cleveland-Redland Bay Road, Victoria Point for the purposes of a ‘Transport Depot’ was a lawful use, subject to the parameters set out in Schedule 1 of the order.
- Of note, the Court Order established a lawful access point to Redland Bay Road (being a State-controlled road).
- *MCU013864*: A material change of use application for a bed and breakfast on land at 687–707 Redland Bay Road, Victoria Point was approved on 21 April 2017.

A request for the reclassification of the koala habitat type under Division 9 of the now superseded South East Queensland Koala State Planning Regulatory Provisions (Koala SPRP) was also requested as part of the above application. In relation to the Division 9 request, Council resolved at a General Meeting on 19 April 2017 as follows:

1. *That the request to determine that part of the site at 687-707 Redland Bay Road, Victoria Point, is of a koala habitat type different to that shown on the Map of Assessable Development Area Koala Habitat Values be refused on the following grounds:*
 - a) *There is no need to change the classification of koala habitat type to allow the development application for Material Change of Use for a Bed and Breakfast to be decided.*
 - b) *The required condition of development approval under Division 9 s6 of the Koala SPRP to determine the koala habitat type on the site would not be relevant to, or reasonably required in relation to the development or use of the site as a consequence of the development and would therefore conflict the Sustainable Planning Act 2009 s345.*

City Plan Major Amendment: South West Victoria Point Local Plan

A report was taken to the General Meeting of Council on 20 November 2019 to seek Council’s approval to submit City Plan Major Amendment Package (05/19) SWVP Local Plan to the Planning Minister for the purpose of completing the state interest review, in accordance with the process outlined in the *Minister’s Guidelines and Rules*.

At the meeting on 10 November 2019 Council made the following resolution:

1. *Council gives notice to the State Government that it will not proceed to adopt the proposed South West Victoria Point Local Area Plan as an amendment to City Plan until such time as the full details of the Victoria Point Bypass study is publicly released and there is a firm commitment to the dual carriage way of Cleveland Redland Bay*

Road between magnolia Parade Victoria Point and Giles Road Redland Bay to accommodate the growth of the area.

2. *While Council awaits the State’s commitment to delivering the necessary infrastructure, work will continue to progress the major amendments to the City plan as detailed in Attachment 2: City Plan major Amendment Package (05/19): South West Victoria Point Local Plan.*
3. *To submit Major Amendment Package (05/19): South West Victoria Point Local Plan to the Planning Minister for the purpose of completing the state interest review, in accordance with the process outlined in the Minister’s Guidelines and Rules.*
4. *That the report and attachments remain confidential until such time that the amendment package is released for public consultation, subject to Council and Ministerial approval and maintaining the confidentiality of legally privileged, private and commercial in confidence information.’*

Following Council’s resolution the draft Major Amendment Package (05/19): SWVP Local Plan was referred to the Minister for first state interest check.

DEVELOPMENT PROPOSAL & SITE DESCRIPTION

Proposal

The applications seeks a PA for a material change of use for a retirement facility and relocatable home park on land at 673–719 Redland Bay Road and 10 Double Jump Road, Victoria Point. The application also includes a variation request to vary the operation of the City Plan v1. The intention is to allow the future establishment of an over 50s lifestyle resort and to allow for this use to be established within the emerging community zone as a code assessable land use.

The land uses comprising of both a ‘retirement facility’ and ‘relocatable home park’ have been proposed by the applicant. The definitions in v1 of City Plan are outlined in Figure 1 below. It is noted that the definitions for these land uses align with the definitions under schedule 24 of the *Planning Regulation 2017*.

Proposed land use	Definition in City Plan
Retirement facility	<p><i>A residential use of premises for an integrated community and specifically built and designed for older people. The use includes independent living units and may include serviced units where residents require some support with health care and daily living needs. The use may also include a manager’s residence and office, food and drink outlet, amenity buildings, communal facilities and accommodation for staff.</i></p> <p><i>Examples include: Retirement village</i> <i>Does not include: Residential care facility</i></p>
Relocatable home park	<p><i>Premises used for relocatable dwellings (whether they are permanently located or not) that provides long-term residential accommodation. The use may include a manager’s residence and office, ancillary food and drink outlet, kiosk, amenity buildings and the provision of recreation facilities for the exclusive use of residents.</i></p> <p><i>Does not include: Tourist park</i></p>

Figure 1: Land use definitions. Source: City Plan v.1

The applicant’s indicative Master Plan is included in **Attachment 3**.

Site & Locality

The site is located at 673–719 Redland Bay Road (formally described at Lot 2 on RP149315, Lot 9 on RP574455, Lot 10 on RP57455 and Lot 29 on SP237942) which are located on the corner of Cleveland Redland Bay Road and Double Jump Road (see Figure 2 below). Lot 29 is occupied by the existing transport depot and lots 2, 9 and 10 are occupied by numerous abandoned sheds and structures. The site has a total area of 18.66ha.

Under the provisions of the City Plan the lots are located within the emerging community zone and mapped under the environmental significance, flood and storm tide hazard, waterway corridors and wetlands and bushfire overlays.



Figure 2: Site location

APPLICATION ASSESSMENT

Planning Act 2016

The application has been made in accordance with the *Planning Act 2016 (PAct) Development Assessment Rules* and constitutes an application for a PA for a material change of use that includes a variation request, under City Plan v1.

The application is assessed in three parts as follows:

- **Part A - Schedule 11 request under the *Planning Regulation 2017*** will consider the Request under Schedule 11, Part 4 of the *Planning Regulation* – Request about koala habitat area;
- **Part B - Preliminary approval for a material change of use** will consider the application for a preliminary approval for material change of use; and
- **Part C - Variation request** will consider the variation request.

PART A – - Schedule 11 request under the *Planning Regulation 2017*

The applicant has requested that, for the purposes of assessing and deciding this development application, part of the site which is currently mapped as bushland habitat is to be assessed as medium value rehabilitation habitat. See Figure 3 below, which shows the current and proposed habitat values mapping over the site.



Figure 3: Proposed koala mapping amendments

The proposed mapping changes are described below:

- Lot 2 – entire Lot
- Lot 9 – western portion of the lot and along the south-east boundary, adjoining lot 2
- Lot 10 – minor amendments following ground-truthed tree line
- Lot 29 – along the northern boundary.

Assessment framework

The *Planning Regulation 2017* sets out the framework for deciding a request about Koala habitat areas in Schedule 11, Part 4, Section 10 as follows:

(1) *The assessment manager may make the requested decision if—*

(a) *for a decision that the part is taken to be a **bushland habitat area**—the part—*

- i) is 2ha or more, or less than 2ha but within 50m of bushland; and*
- ii) contains mainly forested areas of native vegetation, including areas ranging from closed canopy forest to open woodland; and*
- iii) contains a variety of trees of the *Eucalyptus* genus typically used by koalas for food, shelter, movement or dispersal; and*
- iv) is not a plantation forest; or*

(b) *for a decision that the part is taken to be a **rehabilitation habitat area**—the part—*

- i) is on a lot of 0.5ha or more; and*
- ii) contains native vegetation as forested areas, scattered trees, areas of grass and bare surfaces; and*
- iii) contains trees that koalas typically use for food or shelter; and*
- iv) allows for the movement and dispersal of koalas; and*
- v) allows for genetic exchange between koalas; or*

(c) *for a decision that the part is taken to be an area of **koala habitat value**—the part—*

- i) is on a lot of less than 0.5ha; and*
- ii) contains native vegetation as forested areas, scattered trees, areas of grass and bare surfaces; and*
- iii) contains trees that koalas typically use for food or shelter; and*
- iv) allows for the movement and dispersal of koalas; and*
- v) allows for genetic exchange between koalas; or*

d) *for a decision that the part is taken to be an area **unsuitable for koalas**—the part—*

- i) contains mainly bare and impervious surfaces; and*
- ii) is separated from other areas of koala habitat; and*
- iii) contains a high level of threats for koalas; and*
- iv) is within an area of at least 10,000ha which generally does not contain koalas.*

Assessment

Lot 9 – Western portion of the lot and area to the south-east, adjoining Lot 2

The part to be re-classified is less than 2ha in size and located within 50m of bushland habitat; however several fire episodes have occurred over recent years in the south-west, resulting in a large grassland patch with only 13 scattered *Eucalyptus* koala habitat trees remaining, the majority being a non-eucalyptus species. This area does not therefore consist of mainly forested areas with native

vegetation, and while forming an open woodland pattern, cannot be regarded as having a closed canopy. It is also not a plantation forest.

The area within lot 9 is therefore not considered to meet the classification of bushland habitat and is more aligned with the definition of rehabilitation habitat which is characterised as containing vegetation in the form of scattered trees and areas of grass.

Lot 2 – Entire Lot

Similar to the above, whilst this area is less than 2ha and within 50m of bushland habitat; the area is fragmented and disturbed through historical land uses. It does not consist of mainly forested areas of native vegetation and only one *Eucalyptus* tree is located in this area. It is also not a plantation forest.

The area within lot 2 is therefore not considered to meet the classification of bushland habitat and is more aligned with the definition of rehabilitation habitat, which is characterised as containing vegetation in the form of scattered trees and areas of grass or bare surfaces.

Lot 10 – Minor amendments following ground-truth tree line.

The mapping request seeks to reclassify the area outside of the ground-truthed tree line as rehabilitation habitat. While the area outside of the tree line is less than 2ha and within 50m of bushland habitat; this area is again fragmented and disturbed through historical land uses. It does not consist of mainly forested areas of native vegetation and only one *Eucalyptus* tree is located in this area. It is also not a plantation forest.

The area within lot 10 that is located outside of the ground-truthed tree line is considered to align with the definition of rehabilitation habitat, which is characterised as containing vegetation in the form of scattered trees and areas of grass.

Lot 29 – Along the northern boundary

This area along the northern boundary is grassed and directly adjoins the commercial use. It does not consist of a forested areas of native vegetation, there are no *Eucalyptus* trees within this area and it is not a plantation forest.

The area along the northern boundary is therefore also considered to meet the classification of rehabilitation habitat.

Conclusion

All of the proposed re-mapped areas contain scattered *Eucalyptus* trees, grassed areas and areas which have been disturbed due to historical land uses. These areas are therefore taken to meet the classification of rehabilitation habitat for the following reasons:

- they are located on a lots of 0.5ha or more; and
- these areas contain native vegetation as forested areas, scattered trees, areas of grass and bare surfaces; and
- the areas contain a few trees that koalas typically use for food or shelter; and
- the areas allow for the movement and dispersal of koalas; and
- the areas allow for genetic exchange between koalas.

It is therefore recommended that, for the purposes of this assessment, the mapped habitat is taken to be in accordance with the applicant's proposed koala mapping amendments (see **Attachment 4**).

Summary of options for PART A - Schedule 11 request under the *Planning Regulation 2017*

Officers advise there are three options for Part A - Schedule 11 request under the *Planning Regulation 2017*:

1. Support the applicant's request under Schedule 11 of the *Planning Regulation 2017*.
2. Support in part the applicant's request under schedule 11 of the *Planning Regulation 2017*.
3. Oppose the applicant's request under schedule 11 of the *Planning Regulation 2017*, for the reasons identified in Attachment 2.

Officers recommend that for the purposes of this assessment, the mapped habitat is taken to be in accordance with the applicant's proposed koala mapping amendments as indicated in Attachment 2.

The officer recommendation is for Council to support the applicant's request under Schedule 11 of the *Planning Regulation 2017*.

PART B - Preliminary approval for a material change of use

Assessment framework

In assessing this application s45(5) of the PAct provides that:

*'An **impact assessment** is an assessment that—*

(a) must be carried out—

(i) against the assessment benchmarks in a categorising instrument for the development; and

(ii) having regard to any matters prescribed by regulation for this subparagraph; and

(b) may be carried out against, or having regard to, any other relevant matter, other than a person's personal circumstances, financial or otherwise.

Examples of another relevant matter—

- *a planning need*
- *the current relevance of the assessment benchmarks in the light of changed circumstances*
- *whether assessment benchmarks or other prescribed matters were based on material errors'*

Relevant assessment benchmarks in a local categorising instrument

City Plan v1

The application has been assessed under City Plan v1.

The application is subject to impact assessment and in this regard, the application is subject to assessment against the entire planning scheme. However, it is recognised that the following codes are relevant to the application:

- strategic framework
- emerging community zone code
- medium density residential zone code
- bushfire hazard overlay
- environmental significance overlay

- flood and storm tide hazard overlay
- landslide hazard overlay
- transport noise corridor overlay
- waterway corridors and wetlands overlay
- healthy waters code
- infrastructure works code
- landscaping code
- transport, servicing, access and parking code.

Matters prescribed by regulation

- *SEQ Regional Plan 2017*

The site is located within the Urban Footprint in the *SEQ Regional Plan 2017* which came into effect on 11 August 2017. The proposal does not conflict with the regional plan policies associated with this classification and this is discussed further below.

- *State Planning Policy (SPP) 2017*

The State interests identified in the SPP are appropriately integrated into City Plan, and therefore consideration of the SPP, other is not relevant to the application.

- *Local Government Infrastructure Plan*

There is no trunk infrastructure identified in the LGIP as relevant to the development. The subject land is located outside the Priority Infrastructure Area identified in the LGIP.

Relevant matters

In accordance with s45(5)(b) of PAct the assessment manager may have regard to any other relevant matter, other than a person's personal circumstances, financial or otherwise in the decision of the application.

The following relevant matters were considered in the assessment of the application:

- Draft Major Amendment Package (05/19): SWVP Local Plan (refer to background section of the report).
- The suitability of the site for Large Format Retail and whether this particular use would be better accommodated elsewhere in the city.

Decision making framework

S.60 of PAct relevantly provides that:

*'...(3)To the extent the application involves development that requires **impact assessment**, and subject to section 62, the assessment manager, after carrying out the assessment, must decide—*

(a) to approve all or part of the application; or

(b) to approve all or part of the application, but impose development conditions on the approval; or

(c) to refuse the application.

(5) The assessment manager may give a preliminary approval for all or part of the development application, even though the development application sought a development permit.

(6) If an assessment manager approves only part of a development application, the rest is taken to be refused.'

Section 49(2) of the PAct is relevant to a preliminary approval, providing that:

- (2) A preliminary approval is the part of a decision notice for a development application that—*
- (a) approves the development to the extent stated in the decision notice; but*
- (b) does not authorise the carrying out of assessable development.*

As such, a preliminary approval may be conceptual in nature, and does not require detailed assessment of plans required as part of a request for a development permit. In this instance the applicant has provided an indicative master plan showing a conceptual layout of the development (see **Attachment 3**) and provided additional supporting information in the submitted planning report.

Assessment

The following key issues have been identified as being relevant to the assessment:

- consistency with statutory planning framework
- land use intent
- consistency with the SWVP local plan
 - land use
 - site layout
- environmental values
- access and parking
- infrastructure
- bushfire
- density.

Consistency with planning framework

SEQ Regional Plan 2017

The site is located within the Urban Footprint in the SEQRP 2017 which came into effect on 11 August 2017. The SEQRP 2017 states that:

'Land in the Urban Footprint may be unsuitable for urban purposes for other reasons including constraints such as flooding, land slope, and scenic amenity, and the need to protect significant vegetation, which may include matters of national environmental significance and parts of the regional biodiversity network...Local governments must investigate these areas for urban redevelopment opportunities as part of their planning scheme reviews.

Shaping SEQ relies on local government planning schemes to determine the most suitable zone for each land parcel within the Urban Footprint. The development assessment process determines the extent and suitability of development on each site...'

SEQRP 2017 recognises that the urban footprint contains several areas that may be underutilised for a substantial period and one way of delivering the regional plan is to investigate these areas and unlock their urban development potential in the short-term. Chapter 4 discusses how the SEQRP 2017 will be delivered and in particular acknowledges that *'local government planning schemes are*

fundamental in implementing Shaping SEQ...Local government planning schemes provide finer grain local policy and must advance the relevant matters of state and regional significance’.

In accordance with Chapter 4 of SEQRP 2017 proposed development is to be assessed against the following parts of the SEQRP 2017, to the extent relevant:

- Part A: Goals, elements and strategies; and
- Part C: Sub-regional directions.

An application conflicts with the SEQRP 2017 if it does not comply with these sections.

Relevant to the assessment of the development application, the ‘grow’ goal identifies a number of elements and strategies. Of particular relevance is element three (3) (new communities) which requires that new communities support a consolidated urban settlement pattern, maximise the use of existing infrastructure and deliver high-quality communities. The strategy seeks to ensure that the planning and delivery of land use and infrastructure for new communities, including major development areas, are integrated and sequenced, and deliver complete communities in a timely manner. Further, a net residential density of 15-25 dwellings/ha in new communities is to be provided (increased to 30-60 where within easy walking distance of an existing or proposed public transport station).

Goal 4 ‘sustain’ recognises the need to identify and protect natural assets. Element two (2) seeks to protect and enhance the regional biodiversity network to support the natural environment and contribute to a sustainable region. The strategy seeks to maintain and enhance the value of connectivity of regional biodiversity corridors to optimise biodiversity conservation outcomes and avoid fragmentation. Degraded areas are to be rehabilitated to maintain the habitat and support fauna movement.

There is a clear intent within the SEQRP 2017 to ensure that the delivery of land use in new communities is carried out in a way that protects natural assets and promotes integrated and sequenced development. It is therefore considered critical that the application does not compromise or prejudice the consideration of the appropriate planning outcomes, in the public interest, and the implementation of the future planning strategy for the area.

Strategic Framework

The strategic framework sets the policy direction for the planning scheme and forms the basis for ensuring appropriate development occurs within the planning scheme area for the life of the planning scheme. The strategic framework is structured as follows:

- the strategic intent
- the following five themes that collectively represent the policy intent in the following way:
 - liveable communities and housing;
 - economic growth;
 - environment and heritage;
 - safety and resilience to hazards; and
 - infrastructure.

Specifically section 3.3.1.4 – ‘newly developing communities’ relevantly states that:

- In these areas, land is used efficiently and development provides a mix of lot sizes and housing forms, including detached housing on a mix of lots sizes and attached housing within well-structured and walkable neighbourhoods.

- Neighbourhoods are designed to integrate with surrounding transport and open space networks to form connected, convenient and safe systems.
- Development facilitates the retention or enhancement of significant waterway and habitat corridors and other areas of environmental significance.
- Unless included within the priority infrastructure area, development does not proceed until all local and trunk infrastructure requirements (both state and local) can be met by the development proponents, and agreed funding mechanisms established.

Further, section 3.5.1.1 – ‘the natural environment’ states:

- Ecological corridors are primarily protected by the environmental significance and waterway corridors and wetlands overlays as well as the conservation, environmental management and recreation and open space zones. However, other land may also perform corridor functions that are to be protected.
- Development occurs as intended under the relevant zone, but is undertaken in a manner that avoids or minimises and mitigates impacts on matters of national, state or local significance. Where development results in a significant residual impact on important habitat, the loss may need to be offset.

The strategic framework therefore sets a clear direction in terms of ensuring land is used efficiently and in a way that is intended under the relevant zone; but also in a manner that avoids, minimises or mitigates impacts on matters of environmental significance. It is also important to note that the strategic framework stipulates that development is not to proceed until all local and trunk infrastructure requirements can be met.

Land use intent

The intent under the strategic framework is carried through into the zone codes of the City Plan. The site is mapped under the emerging community zone, within which overall outcomes relevantly state:

- a) structure planning of the area within the zone is undertaken in advance of any reconfiguration or development for urban purposes;*
- b) interim development does not compromise or constrain the potential for well designed future urban communities;*
- c) urban development facilitates the establishment of attractive, functional, resilient and walkable communities that are well supported by accessible centres and employment opportunities, community services and public transport;*
- d) urban residential development provides for a mix of affordable housing types and achieves a net residential density of 12-15 dwellings per hectare;*
- e) the area fronting Redland Bay Road east of the creek facilitates the establishment of large format retail uses, consistent with the mixed use zone;*
- f) land is developed in a logical pattern that facilitates the efficient provision of urban infrastructure;*
- g) transport networks are coordinated and interconnected to ensure a high level of accessibility for pedestrians, cyclists, public transport and private vehicles;*

- h) development provides effective buffering to nearby sensitive land uses, rural activities and natural areas;*
- i) development retains significant landscape, social, recreational and cultural features and values; and*
- j) development maximises the retention of natural habitat areas and corridors, and provides effective buffers to wetlands and waterways.*

Whilst Council is currently undertaking a structure planning exercise for the area and has submitted City Plan Major Amendment Package (05/19) SWVP Local Plan for first state interest review, it is contended by the applicant that the site is not contingent on the finalisation or adoption of the structure plan, as a result of the site's physical separation and limited dependence on the remainder of the structure plan area. Consequently, the applicant argues that development on the site can be advanced independently, without compromising or constraining the potential for a well-designed future urban community in the balance of the structure plan area.

A review of the draft SWVP local plan demonstrates that in terms of the site's location within the structure plan area, the site is physically disconnected from the wider area due to an established vegetated creek corridor, which is identified as conservation zone, or an 'urban habitat patch' (see **Figure 5**).

However, while the site is disconnected somewhat in terms of its physical location, it is nevertheless located within the emerging community zone and a holistic approach is considered necessary to ensure that development does not compromise or constrain the future planning strategy for the area as a whole.

The development proposes a retirement facility/relocatable home park in an area identified for large format retail (LFR) by overall outcome (2)(e) and performance outcome PO7 of the emerging community zone code. The development therefore conflicts with the overall outcomes sought for the site under the emerging community zone and so, it is important to consider whether the land use proposed would constitute an appropriate planning outcome, in the public interest, which would not undermine the implementation of the future planning strategy for the area, and which would be in accordance with the outcomes sought under the strategic framework, the SEQRP 2017 and the draft SWVP Local Plan.

The applicant was asked to demonstrate:

- a) There is no need for LFR in the southern part of the city; or
- b) LFR would be better accommodated elsewhere in the city, with superior locational characteristics.

A report prepared by MacroPlanDimasi was provided, which estimates that the population growth in Redland Bay and Victoria Point will generate demand for an additional 8,000m² of LFR floor space, with up to 4,000m² being most suitably located in the southern part of the city. The balance to be located elsewhere. This demand is not expected to be realised for the next 10 years.

A review of the Large Format Land Demand and Supply study that was undertaken for City Plan seeks to ensure LFR is accommodated in or directly adjacent to existing centres such as Victoria Point through redevelopment opportunities, or in existing mixed use areas surrounding Capalaba and Cleveland. As such, development of the subject land for a new LFR centre is not specifically required, as sufficient opportunities exist within existing centres to accommodate the modest

demand identified. This is reflected in the draft SWVP Local Plan, which proposes to zone the site as medium density residential and does not carry through the intentions for LFR uses.

It is noted that Council in its assessment may have regard to any relevant matter in the assessment of an impact assessable application, other than a person's personal circumstances, as outlined in section 45 (5) of the PAct. In light of the conflict with overall outcomes (2)(e) of the emerging community zone code, it was considered that there could be relevant matters to support an alternative land use on the site, which are discussed below.

Consistency with the draft SWVP Local Plan

Land use

Recognising the land is within the urban footprint and there is no identified need for LFR on the subject site, it is considered relevant to give weight to the preferred land use identified in the draft SWVP Local Plan area, which proposes to include the land within the medium density residential zone, for the following reasons:

- it is isolated from the balance of the local plan area being separated by Moogurrapum Creek;
- it does not adjoin any existing residential development, providing scope for a different residential form;
- the land is considered to be suited to a large single integrated development that the medium density residential zone would support;

residential development (incorporating medium density development) would be more suited to the irregularly shaped development area and managing the interface of residential uses with environmental values, bushfire risk and flooding hazards; and

- it is generally located within 400m walkable catchment of public transport routes.

Overall outcomes in the draft SWVP Local Plan seek to provide for predominantly townhouses and apartments within the medium density residential zone; however retirement and residential care facilities may also be provided. The proposed use of the site for a retirement facility would not therefore compromise or constrain the outcomes being sought under the draft SWVP Local Plan.

The applicant has raised concern as to whether the definition of retirement living could include relocatable homes. However, the proposed use of the site as a relocatable home park is considered to be an alternative land use which is not anticipated in the medium density residential zone as proposed under the draft SWVP Local Plan.

While the built form of a relocatable home park may be similar to an over 50s lifestyle resort as proposed by the applicant, nevertheless a relocatable home park in isolation, constitutes a land use which does not meet the overall outcomes sought for the medium density zone and would in fact be prejudicial to the ultimate form of development being sought by Council through its draft SWVP Local Plan.

A retirement facility addresses the social implications of aging in place and this is recognised, however there is insufficient detail available in terms of built form and landscaping outcomes for council to assess the impacts of the relocatable home park. The imposition of a condition restricting occupancy to over 50s is not considered a reasonable condition. Further, approving the relocatable home park use as code assessable impacts upon submission rights that the community would otherwise have.

The applicant has not put forward an argument to demonstrate that there is a planning need for the relocatable home park on this site and there are considered to be no other relevant matters to consider, which would support this use, in the public interest.

As outlined in s60 of Pact, the assessment manager, after carrying out the assessment, can decide to approve all or part of the application. If only part of the application is approved, the rest is taken to have been refused.

It is therefore considered that the PA can be approved in part, for the retirement facility use only. The relocatable home park is therefore taken to have been refused.

Subject to this, it is considered that, while a retirement facility is proposed in an area identified for LFR by overall outcome (2)(e) and performance outcome PO7 of the emerging community zone code, there are other matters relevant to the assessment of this application which support a retirement facility on the site being:

- Draft Major Amendment Package (05/19): SWVP Local Plan (refer to background section of the report).
- The unsuitability of the site for LFR.

Site layout

The indicative master plan provides a conceptual layout of the development (see Attachment 3) and identifies two main areas for 'urban use', one to the east of the site and one to the west, which are separated by a 'bushland area', which consists of vegetation to be retained and which is mapped as medium value bushland habitat. An internal road is proposed which will provide access between the two 'urban use' areas. The central facilities building has also been identified in this location. A review of Council's draft SWVP Local Plan indicates that while parts of the site are proposed to be zoned medium density residential as discussed above, the plan also seeks to build upon and refine the wildlife habitat network identified in Council's *Redland City Council Wildlife Connection Plan 2018-2028* (WCP). Consequently a large proportion of the site is also to be designated as conservation zone and an 'urban habitat patch' in the conservation network (refer to Figures 4 & 5 below).

Figure 4: Local Plan – Land uses zones

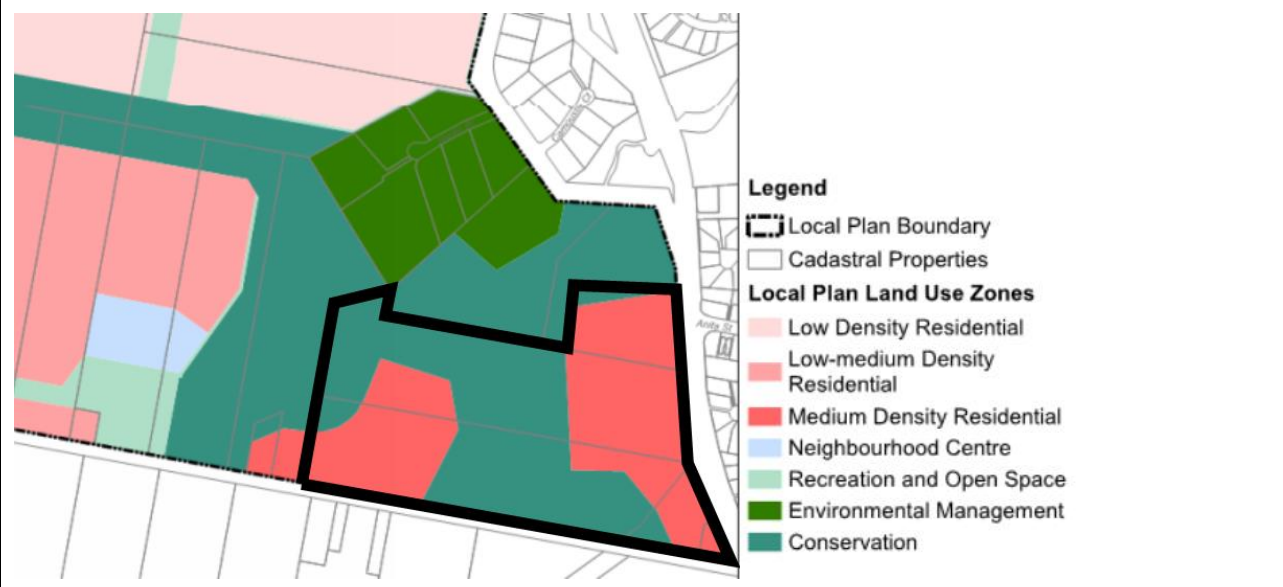
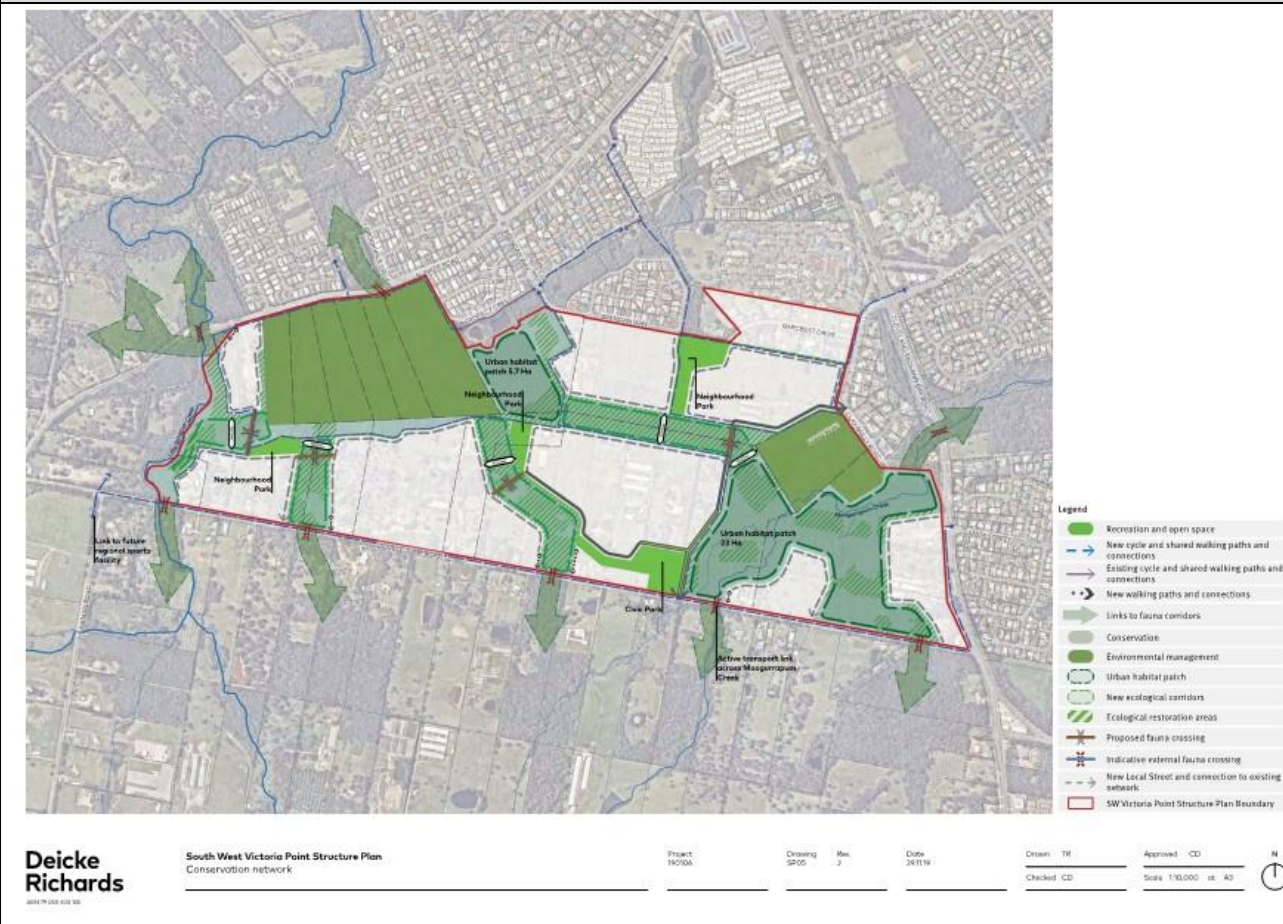


Figure 5: Local Plan – Conservation network



Overall outcomes of the conservation zone code in the draft SWVP Local Plan relevantly seek to protect and enhance existing ecological values and provide ecological corridors which allow for ecological connectivity between areas of environmental value within the zone and the broader wildlife habitat network, as follows:

- (a) the landscape qualities, environmental values (matters of state and local environmental significance) and ecological functions of land in this zone are protected and enhanced;*
- (b) ecological corridors are created to provide for ecological connectivity between areas of environmental value in this zone and to the broader wildlife habitat network;*
- (c) development restores degraded and cleared areas in the zone increasing the extent and quality of areas of state and local environmental significance;*
- (d) road connections through ecological corridors are limited and located to minimise adverse impacts on ecological connectivity;*
- (e) grade separated wildlife crossing infrastructure is constructed where road connections pass through ecological corridors to facilitate the safe movement of wildlife;*
- (f) esplanade road treatments are established to separate this zone from urban uses to manage edge effects on environmental values and mitigate bushfire risk;*
- (g) improved environmental management of the zone is facilitated by the transfer of land in the conservation zone into public ownership where part of a development site;*
- (h) development is restricted to conservation management activities, passive recreational opportunities, including pedestrian and bicycle paths and public utilities provided by a public sector entity;*
- (i) development is compatible with flooding or other drainage constraints affecting the land;*
- (j) stormwater infrastructure is located outside of ecological corridors to avoid adverse impacts on the wildlife movement function of corridors; and*
- (k) development minimises adverse impacts on scenic and natural values of land within this precinct.*

PO3 of the code specifically states that corridors are to be provided with a minimum width of 100m:

‘A network of ecological corridors with a minimum width of 100m are established through restoration activities to provide an effective ecological connection between:

(1) areas of urban habitat in the local plan area; and

(2) areas of environmental value outside the local plan area that are part of the broader wildlife habitat network. ‘

The editor’s note within the performance outcomes references the *Redland City Council Wildlife Connection Plan 2018-2028* (WCP) for details on the wildlife habitat network.

The WCP identifies a 100-metre wide wildlife habitat corridor through the centre of the property, connecting the waterway corridor to the north-west and west to the core habitat and established wildlife habitat corridor to the south of the site, on the southern side of Double Jump Road. The proposed corridor lies across the proposed central east-west connector and community facility/activity areas, identified in the indicative master plan.

The layout of the development therefore, in terms of the areas identified for ‘urban use’ conflicts with the location of conservation zone as identified in draft SWVP Local Plan and would prejudice the provision and functionality of a north-south ecological corridor as refined in the draft SWVP Local Plan based on the WCP.

In accordance with S.60 of Pact, the assessment manager may, after carrying out the assessment, approve all or part of the application, but impose development conditions of the approval.

Officers consider that the site layout can be amended by way of conditions (and supported by amendments in red to the proposed indicative master plan as indicated in Attachment 3) to ensure:

- The 'bushland area' aligns with the location of the proposed conservation zone and north-south ecological corridor under the draft SWVP Local Plan.
- All future development, including the proposed central facility, is to be relocated outside of the 'bushland area' and accommodated within the designated 'urban use' area.
- Any road placed within the proposed conservation zone would need to be designed to maintain the functionality of this land as a fauna corridor ensuring safe movement of wildlife.

Subject to these conditions, officers are satisfied that the proposed retirement facility and bushland area land uses being sought under the PA would constitute an appropriate planning outcome which would not undermine the implementation of the future planning strategy for the area.

Access and Parking

The assessment of access and parking elements will be undertaken at a later stage, when detailed plans are submitted as part of a future MCU application over the site.

Of note, however, the site has an existing access at the Cleveland Redland Bay Road intersection, which serves the existing truck depot at 659–685 Redland Bay Road. The application was referred to the State Referral Agency (SARA) as it involves a material change of use of premises near a State transport corridor. SARA has provided a referral agency response with conditions to confirm that the pedestrian and road access locations as proposed are supported. The conditions require road access works comprising a new signalised fourth leg to the Cleveland Redland Bay Road/Anita Street intersection to be constructed, prior to the commencement of use.

Infrastructure

In terms of infrastructure provision, as this is a preliminary approval only and does not authorise development to occur, subsequent development applications (seeking a development permit) will be subject to assessment against relevant codes including the infrastructure works code and will include detailed information on how the site, which is currently located outside the Priority Infrastructure area, will be serviced. In this regard the applicant will need to demonstrate all local and trunk infrastructure requirements (both state and local) can be provided with agreed funding mechanisms established as part of any subsequent development application. This requirement for an agreed funding mechanism for both state and local infrastructure provision is a key element which is reflected in the overall outcomes of both the emerging community zone code and the draft SWVP Local Plan code.

At this stage an Engineering Report has been provided which identifies conceptual water connections for the development, being the existing water mains in Cleveland Redland Bay Road and Double Jump Road. Further, conceptual wastewater locations have also been identified with a gravity catchment proposed to service the development. However, no details have been provided at this stage regarding upgrades necessary to existing trunk mains external to the site and the VP treatment plant which will be necessary to service future development including the subject land in the emerging community zone. Given that this is an application for a preliminary approval only, this approach is considered acceptable.

Bushfire

The vegetation to be retained within lots 9 & 10 is mapped as high and medium bushfire intensity under the bushfire overlay. A bushfire hazard and risk assessment was provided as part of the application, which identifies a 'low' hazard for the majority of the site and recommends a perimeter road being used to separate residential development from the source of bushfire risk. Nevertheless, the assessment of the development against the bushfire overlay will be undertaken at a later stage, as part of a future MCU application over the site.

Density

The proposal seeks to facilitate an over 50s lifestyle resort which will accommodate approximately 264 dwellings, equating to a net residential density of 22 dwellings per hectare.

Overall outcome (2) (d) of the emerging community zone code seeks to achieve a net residential density 12-15 dwellings per hectare. While the density proposed is over that sought under the emerging community zone, it is considered relevant to consider that the zoning under the proposed draft local plan does not specify a residential density for the proposed medium density zone, instead seeking to provide for development which is acceptable in terms of land use, built form and site design. These matters will be considered when detailed plans are submitted as part of a future MCU application over the site.

It is also important to note that element three (3) (new communities) of the SEQRP 2017 identifies a net residential density of 15-25 dwellings/ha in new communities is to be provided (increased to 30-60 where within easy walking distance of an existing or proposed public transport station). The proposed density of the development would therefore be in accordance with the SEQRP 2017.

Environmental values

Large areas of the site are mapped under the environmental significance overlay, which is based on the SPP mapping for Matters of State Environmental Significance (MSES) and also includes matters of Local Environmental Significance (MLES).

The purpose of the environmental significance code is achieved through the following overall outcomes:

- areas of high biodiversity or ecological significance are retained and protected;
- development maximises the retention of native vegetation and significant habitat features;
- development minimises the loss of koala habitat trees;
- impacts on matters of state or local ecological significance are minimised and mitigated;
- development does not cause substantial fragmentation of habitat areas;
- opportunities for safe and viable wildlife movement within and between habitat areas are facilitated;
- landscaping and planting is undertaken in a manner that contributes to the ecological values of the site; and
- where they occur significant residual impacts on matters of local environmental significance or another prescribed environmental matter in accordance with section 15(4) of the *Environmental Offsets Act 2014*, may need to be offset.

Future applications lodged over the site will require assessment against the environmental significance overlay code, as well as the future draft SWVP Local Plan code. As discussed above, the draft SWVP Local Plan seeks to build upon and refine the wildlife habitat network identified in Council's WCP and consequently proposes to designate part of the site as a conservation zone and an 'urban habitat' patch. Subject to the conditions/amendments discussed above, officers are satisfied that a retirement facility land use being sought under the PA would not undermine the environmental and habitat values being sought for the area.

Conclusion

The assessment principally considers whether the land use (proposed retirement facility and bushland area) is acceptable in this location as the assessment of the detailed design would occur in the subsequent MCU application. It is considered that sufficient information has been provided to assess the development as a concept land use and layout, which is one form that a PA may take.

The assessment identified that while the proposal for a retirement facility/relocatable home park on the site conflicted with assessment benchmarks in the local categorising instrument, there are other relevant matters to consider in the assessment of this application, which support an alternative land use on the site, being a retirement facility.

In terms of the layout identified in the applicant's indicative master plan, significant weight has been given to Council's draft SWVP Local Plan, which sets out Council's future planning strategy for the area and which identifies conservation zoned land and wildlife corridors in the area, building upon the strategic direction provided in Council's WCP. Subject to conditions, including amendments to the proposed indicative master plan, to align the proposed 'bushland area' with the location of the conservation zoned land under the draft SWVP Local Plan and the location of a wildlife habitat corridor identified in the WCP, officers are satisfied that the development would not prejudice the outcomes being sought for the area. It is therefore recommended that a PA for a retirement facility only be supported.

Summary of options for PART B – Preliminary approval for a material change of use

Officers advise that there are three options for Part B – Preliminary approval for a material change of use:

1. Support a preliminary approval application for a retirement facility, subject to the conditions generally in accordance with those outlined in **Attachment 1**.
2. Support a preliminary approval application for a retirement facility, subject to new or amended conditions.
3. Oppose the development application, subject to new or amended reasons.

In relation to the Preliminary Approval for a material change of use for a retirement facility on land at 673–719 Redland Bay Road and 10 Double Jump Road, Victoria Point; officers recommend supporting the approval of the application subject to the conditions outlined in **Attachment 1**.

The officer recommendation is for Council to support a preliminary approval application for a retirement facility, subject to conditions.

PART C – Variation request

Proposal

The variation request seeks to vary the effect of City Plan v1 (which was the local categorising instrument in effect at the time the application was lodged) as follows:

- Establish an assessment benchmark: the Victoria Point Retirement Code which would be applicable to future development applications lodged under the PA (see **Attachment 5**).
- Vary the level of assessment table for the emerging community zone by making a retirement facility and relocatable home park code assessable (see **Attachment 6**).
- Vary the level of assessment for a number of overlays: bushfire, environmental significance, flood and storm tide hazard, landslide hazard, waterway corridors and wetlands overlay (see **Attachment 6**).

It is important to note that any part of the City Plan not proposed to be amended by this application will remain extant for the life of any approval and will be applicable to any development application.

Assessment framework

S.61 of the PAct relevantly provides that:

- ‘...(2) When assessing the variation request, the assessment manager must consider—*
- (a) the result of the assessment of that part of the development application that is not the variation request; and*
 - (b) the consistency of the variations sought with the rest of the local planning instrument that is sought to be varied; and*
 - (c) the effect the variations would have on submission rights for later development applications, particularly considering the amount and detail of information included in, attached to, or given with the application and available to submitters; and*
 - (d) any other matter prescribed by regulation.*
- (3) The assessment manager must decide—*
- (a) to approve—*
 - (i) all or some of the variations sought; or*
 - (ii) different variations from those sought; or*
 - (b) to refuse the variations sought.*

Assessment

Variation to level of assessment/assessment benchmarks

The proposal seeks the following variations to the level of assessment for the emerging community zone code (see Figure 6) and to establish the Victoria Point Retirement Code as an assessment benchmark:

Use	Categories of Development and Assessment	Assessment benchmarks for Assessable Development and Requirements for Accepted Development
Relocatable home park Retirement facility	Code Assessment	Victoria Point Retirement Code Healthy waters code Infrastructure works code Landscaping code Transport, servicing, access and parking code

Figure 6: Proposed variations to level of assessment.

The above variations are **not supported** for the following reasons:

- The assessment manager must have regard to the effect that the proposed variation would have on future submission and appeal rights for later development applications. In this instance the applicant has provided an indicative master plan showing a conceptual layout of the development only. Whilst this is sufficient to allow assessment of the PA application, it does not provide sufficient detail on built form, siting and setbacks, amenity impacts, streetscape outcomes to be achieved. It is therefore considered that insufficient information is available for the public to be able to form a reasoned opinion of the proposed development.
- To ensure development does not prejudice the future planning of the area, applications are required to be assessed against the outcomes sought in draft SWVP Local Plan. Establishing the use as code assessable against the limited assessment benchmarks identified in Figure 6 above, would exclude future development from being assessable against the draft SWVP local plan codes.
- Use of the site as a relocatable home park is not supported, as identified in PART B of the report.
- Fails to incorporate appropriate provisions for ensuring that all local and trunk infrastructure requirements (both state and local) for the area can be secured, through an agreed funding mechanism.

Variation to level of assessment for overlays

The applicant has also proposed to amend the level of assessment for a number of overlays that affect the subject site, which are detailed below:

Proposed amendment	Officer comments
<p><i>Bushfire hazard overlay</i> Not triggered for development located within the ‘urban use’ areas.</p>	<p>The vegetation to be retained within lots 9 & 10 is mapped as high and medium bushfire intensity under the bushfire overlay. While the applicant has provided a bushfire hazard and risk assessment as part of the application, that identifies a ‘low’ hazard for the majority of the site, it also recommends a perimeter road be used to separate residential development from the source of bushfire risk. Given the sensitive land use proposed and that the PA would be approving a concept layout only, there is no certainty at this stage that future development within the ‘urban use’ areas would comply with the requirements of the bushfire overlay code. This variation is therefore not supported.</p>
<p><i>Environmental significance overlay</i> Not triggered for development located within the ‘urban use’ areas.</p>	<p>The applicant states that the site has been highly modified and disturbed from past commercial activities and that the proposed ‘bushland areas’ identify the only areas containing ecological significance. There are two categories of overlay designation over the site, Matters of State Environmental Significance (MSES) and Matters of Local Environmental Significance (MLES); which are mapped differently from the Schedule 11 koala mapping and which indicates that there may be state (MSES) matters other than koalas to be considered. Further, given the PA would be approving a concept layout only, the impact of the development in terms of minimising and</p>

	mitigating impacts on the areas of retained habitat can only be fully assessed when detailed plans are submitted as part of a future MCU application over the site. This variation is therefore not supported .
<i>Landslide hazard overlay</i> Not triggered for development located within the 'urban use' areas.	Only a small part of the site is mapped under the overlay as 'low'. This area is located within the proposed 'bushland' area. This variation could be supported.
<i>Waterway corridors and wetlands overlay</i> Not triggered for development located within the 'urban use' areas.	The mapped area is located along the creek line and within the proposed 'bushland area'. This variation could be supported.

Conclusion

The proposed variation request to establish a new assessment framework which would make a future retirement facility a code assessable use in this location is not supported.

If approved, it would exclude future MCU development applications from being assessable against the draft SWVP Local Plan codes, which may significantly impact on the delivery of key aspects of the proposed draft SWVP Local Plan, which seeks to provide for a coordinated and linked network of open space and habitat corridors as well as ensuring that all local and trunk infrastructure required to support all land within this emerging community is costed; and that this cost is apportioned across all new development in this area, through an appropriate funding mechanisms. In addition, establishing the proposed retirement facility as code assessable at this time would remove the opportunity for the community to lodge submissions, where insufficient information has been made available for the public at this stage.

It is therefore recommended that the variation request be opposed.

Summary of options for Part C – Variation request

Officers advise there are three options for Part C – Variation request:

1. Oppose the variations sought to City Plan v1, for the reasons outlined in **Attachment 2**.
2. Support the variations sought to City Plan v1.
3. Support the variations sought to City Plan v1, subject to new/amended variations.

In respect of the request to vary the operation of the City Plan v1 and establish the Victoria Point Retirement Code, which would be applicable to future development applications lodged under the PA, officers recommend that the request is opposed.

Infrastructure charges

As this is a preliminary approval only and does not authorise development to occur, subsequent development applications (seeking a development permit) will be subject to assessment against relevant codes including the infrastructure works code and will include detailed information on how the site, which is currently located outside the Priority Infrastructure area, will be serviced. In this regard the applicant will need to demonstrate all local and trunk infrastructure requirements (both state and local) can be provided with agreed funding mechanisms established as part of any subsequent development application. This requirement for an agreed funding mechanism for both state and local infrastructure provision is a key element which is reflected in the overall outcomes of both the emerging community zone code and the draft SWVP Local Plan code.

State referrals

The application triggered referral to the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) for two items under Schedule 10 of the *Planning Regulation 2017*:

- aspect of development stated in Schedule 20 (*Planning Regulation 2017*); and
- material change of use of premises near a State transport corridor.

The SARA provided its formal concurrence agency response on 5 September 2019. The response instructed Council to attach conditions to any approval granted. The conditions require road access works comprising a signalised fourth leg to the Cleveland Redland Bay/Anita Street intersection (see **Attachment 7** for the referral agency conditions and plans as amended).

Submissions

The proposed development is impact assessable and required public notification. The application was publicly notified for 30 business days from 30 May 2019 to 11 July 2019. A notice of compliance for public notification was received on 17 July 2019.

There were eight (8) properly made submissions received during the notification period. A total of three (3) properly made submissions were withdrawn. A further two (2) submissions were received, which were not properly made but were accepted under Part 4 Section 19 of the Development Assessment Rules.

1.	<p>Issue – Traffic</p> <p>Confirm whether the matter of traffic congestion on the Redland Bay–Cleveland Road from German Church Road to Cleveland will be addressed before approval is given for the Proposed Development.</p> <hr/> <p><u>Officer comments:</u></p> <p>The application was referred to the SARA as it involves a material change of use of premises near a State transport corridor. The SARA has provided a referral agency response with conditions to confirm that the pedestrian and road access locations as proposed are supported. Road access works comprising a new signalised fourth leg to the Cleveland Redland Bay Road/Anita Street intersection are to be constructed, prior to the commencement of use.</p> <p>It is recommended that the variation request is refused, in part, to ensure that necessary local and state infrastructure is provided.</p>
2.	<p>Issue – Road widening</p> <p>Does this submission take into account suitable setback as part of the development on the Northern side of Double Jump Road for such future widening of Double Jump Road, as well as widening of Mt Cotton Road to four lanes from Double Jump Road inward to the city?</p> <p>A sensible allowance for road widening now, would eliminate the subsequent public backlash and personal heartbreak that would otherwise be inevitable from existing property owners.</p> <hr/> <p><u>Officer comments:</u></p> <p>As this development applications seeks a PA only, consideration of the need for road widening will be undertaken at a later stage, when detailed plans are submitted as part of a future MCU application over the site. This will be assessed against the infrastructure planning undertaken for the area in accordance with the LGIP.</p>

3.	<p>Koala Action Group</p> <p>The submitter supported the proposal in principle as it was considered a better use than Large Format Retail, provided that:</p> <ol style="list-style-type: none"> 1. It is “properly developed”. 2. The current Koala Habitat designations (<i>Planning Regulation Schedule 11</i>) are retained. Historic photographs indicate that the existing designations were justified until recently when various degradation events occurred. 3. Future development applications adhere to the proposed designs and density. 4. Koala habitat trees are retained where possible within the urban area and integrated into the development. 5. Local species are used for landscaping. 6. Koala movement across the site is facilitated through fencing design, traffic calming measures and unobstructed vision for drivers through internal road design. 7. There is avoidance of vegetated areas for stormwater treatment.
	<p><u>Officer comments:</u></p> <p>As this development application seeks a PA only, the detailed assessment of many of these matters will be undertaken at a later stage, when detailed plans are submitted as part of an MCU application over the site.</p> <p>The request to amend the koala habitat designation is supported by Council officers for the purposes of this application. Future applications lodged over the site will be required to demonstrate why the clearing of non-juvenile koala habitat trees cannot first be avoided, or then minimised, in the areas designated under <i>Planning Regulation Schedule 11</i> as Rehabilitation Habitat, in accordance with <i>Planning Regulation Schedule 11</i> Part 2 Section 6(3), prior to offsetting.</p>

Deemed Approval

The approval of this application has not been issued under Section 64 of the *Planning Act 2016*.

STRATEGIC IMPLICATIONS

Legislative Requirements

In accordance with the *Planning Act 2016* this development application has been assessed against the City Plan v.1 and other relevant planning instruments.

Risk Management

Standard development application risks apply.

Financial

There is potential the appellant may apply for an award of costs.

People

There are no implications for staff associated with this report.

Environmental

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

Social

Social implications are detailed within the assessment in the “Issues” section of this report.

Human Rights

There are no known human rights implications associated with the appeal.

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

Consulted	Consultation Date	Comments/Actions
Internal Assessment Teams	17 January 2018	Assessment comments included in decision recommendation.
Division 4 Councillor	8 January 2018	No comments received.

OPTIONS

Option One

That Council resolves as follows:

1. Support the applicant’s request under Schedule 11 of the *Planning Regulation 2017*.
2. Support a preliminary approval application for a retirement facility, generally in accordance with the conditions in Attachment 1.
3. Oppose the variations sought to vary the effect of the City Plan v1 for the reasons in Attachment 2.
4. Instruct its solicitors to notify the parties accordingly.
5. That this report and attachments remain 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 as follows:

1. Oppose the applicant's request under Schedule 11 of the *Planning Regulation 2017*(reasons for refusal must be identified).
2. Oppose a preliminary approval application for a retirement facility (reasons for refusal must be identified).
3. Oppose the variations sought to vary the effect of the City Plan v1, subject to different or additional reasons to those in Attachment 2.
4. Instruct its solicitors to notify the parties accordingly.
5. That this report and attachments remain 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 as follows:

1. **Support the applicant's request under Schedule 11 of the *Planning Regulation 2017*.**
2. **Support a preliminary approval application for a retirement facility, generally in accordance with the conditions in Attachment 1.**
3. **Oppose the variations sought to vary the effect of the City Plan v1 for the reasons in Attachment 2.**
4. **Instruct its solicitors to notify the parties accordingly.**
5. **That this report and attachments remain confidential until the conclusion of the appeal, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.**

CLICK HERE TO ENTER TEXT.

<u>ASSESSMENT MANAGER CONDITIONS</u>	<u>TIMING</u>
1. Comply with all conditions of this approval, at no cost to Council, at the timing periods specified in the right-hand column. Where the column indicates that the condition is an ongoing condition, that condition must be complied with for the life of the development.	
<u>Approved plans and documents</u>	
2. Undertake the development in accordance with the approved plans and documents referred to in Table 1, subject to the conditions of this approval and any notations by Council on the plans.	Prior to the use commencing and ongoing.

Plan/document title	Reference number	Prepared by	Plan/doc. date
Indicative Master Plan – Base (as amended by RCC)	SK08	Bda architecture	22/10/2019
Proposed koala mapping amendments	8121 E 04 Proposed Koala Mapping B	Saunders Havill Group	19/12/2018

Table 1: Approved plans and documents

<u>Planning</u>	
3. Locate all buildings and structures outside of the bushland area, as amended, unless otherwise approved by Council.	Ongoing
4. Any future road connections located within the 'Bushland Area' as identified in the approved plans, are to be designed to maintain the functionality of this land as a fauna corridor ensuring safe movement of wildlife.	Ongoing

ADDITIONAL APPROVALS

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

- Material change of use for a retirement facility/relocatable home park.
- Building works approval.

-
- Building works – demolition:
 - Provide evidence to Council that a Demolition Permit has been issued for structures that are required to be removed and/or demolished from the site in association with this development.

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

- Plumbing and drainage works.
- Capping of sewer for demolition of existing buildings on site.
- Road opening permit for any works proposed within an existing road reserve.
- Food business licence for any development proposing to conduct a food business under the *Food Act 2006*.

REFERRAL AGENCY CONDITIONS

- **Queensland Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP)**
Refer to the attached correspondence from the DSDMIP dated 5 September 2019 (DSDMIP reference 1901-9543 SRA).

ASSESSMENT MANAGER ADVICE

- **Bushfire hazard**
Council's Bushfire Hazard Overlay identifies the site as high and medium bushfire hazard. Further advice on this matter should be sought from a building certifier.
-
- **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.
-
- **Services installation**
It is recommended that where the installation of services and infrastructure will impact on the location of existing vegetation identified for retention, an experienced
-

and qualified arborist that is a member of the Australian Arborist Association or equivalent association, be commissioned to provide impact reports and on site supervision for these works.

- **Fire ants**

Areas within Redland City have been identified as having an infestation of the Red Imported Fire Ant (RIFA). Biosecurity Queensland should be notified on 13 25 23 of proposed development(s) occurring in the Fire Ant Restricted Area before earthworks commence. It should be noted that works involving movements of soil associated with earthworks may be subject to movement controls and failure to obtain necessary approvals from Biosecurity Queensland is an offence. It is a legal obligation to report any sighting or suspicion of fire ants within 24 hours to Biosecurity Queensland on 13 25 23. The Fire Ant Restricted Area as well as general information can be viewed on the Department of Agriculture and Fisheries (DAF) website www.daf.qld.gov.au/fireants

- **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.

- ***Environment Protection and Biodiversity Conservation Act***

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

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

Attachment 2 – Reasons for Refusal (Variation Request)

1. The indicative master plan shows a conceptual layout of the development and does not provide sufficient detail on how built form, setbacks, amenity impacts, streetscape outcomes are to be achieved. Therefore, insufficient information is available for the public to be able to form a reasoned opinion of the proposed future development and consequent submission rights.
2. Establishing the use as code assessable against the limited assessment benchmarks identified in the Victoria Point Retirement Code and identified development codes in City Plan, would exclude future development from being assessable against the draft South West Victoria Point Local Plan codes.
3. The development fails to incorporate appropriate provisions for ensuring that all local and trunk infrastructure requirements (both state and local) for the area can be secured, through an agreed funding mechanism.
4. The variation requests includes a request that the Bushfire hazard overlay level of assessment should not apply within the 'urban use' areas. The vegetation to be retained within lots 9 and 10 is mapped as high and medium bushfire intensity under the bushfire overlay. Due to the sensitive land use proposed, there is no certainty that future development within the 'urban use' areas would comply with the requirements of the bushfire overlay code.
5. The variation request includes a request that the Environmental significance overlay level of assessment should not apply within the 'urban use' areas. There are two categories of overlay designation over the site, Matters of State Environmental Significance (MSES) and Matters of Local Environmental Significance (MLES); which are mapped differently from the Schedule 11 koala mapping and which indicates that there may be state (MSES) matters other than koalas to be considered. The impact of the development in terms of minimising and mitigating impacts on the areas of retained habitat can only be fully assessed when detailed plans are submitted as part of a future MCU application over the site.

LEGEND:

Bushland Area



RETIREMENT LIVING
(Up to 204 Dwellings)

Access and design of intersection subject to further approval through DTMR.

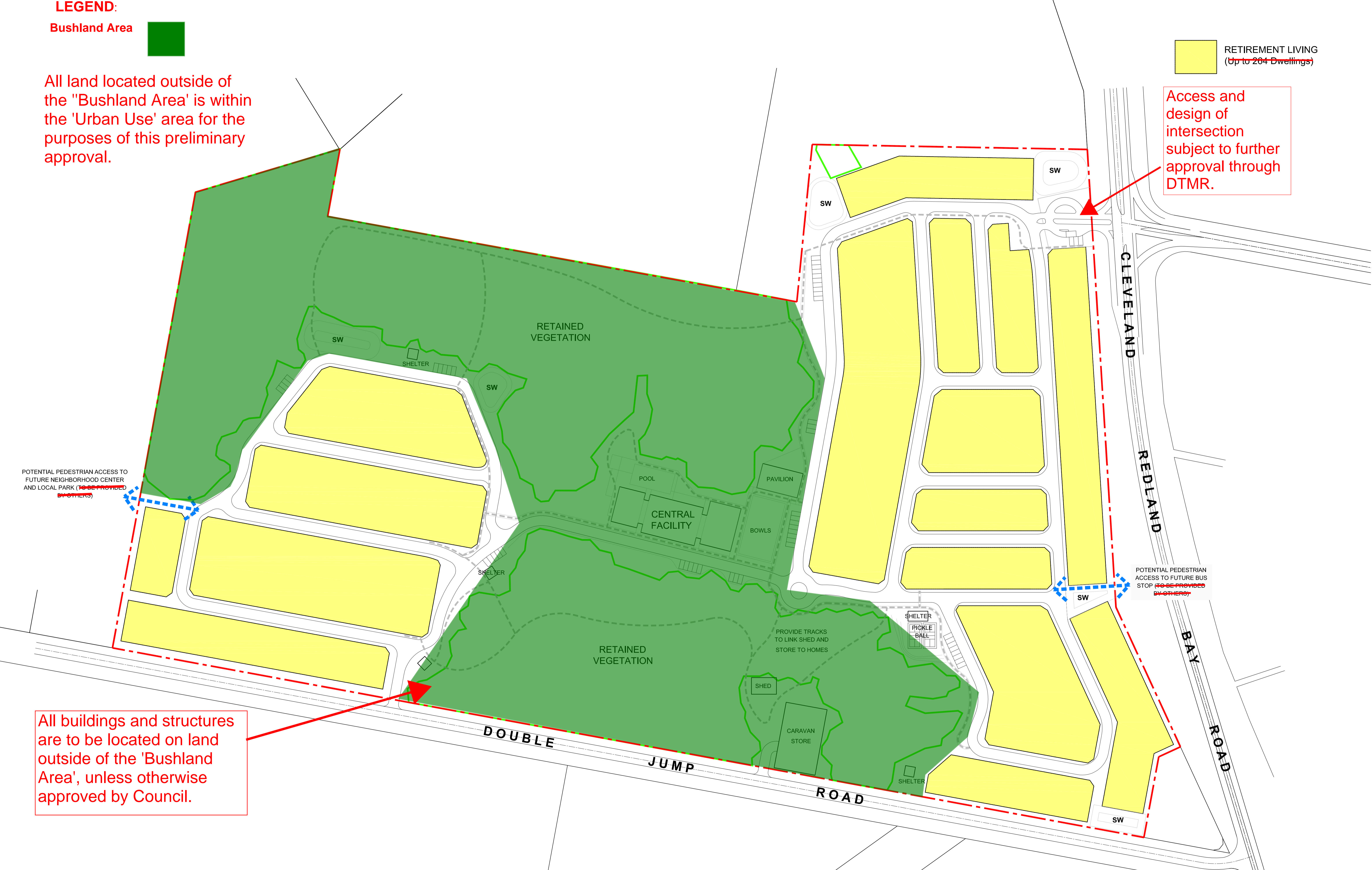
All land located outside of the 'Bushland Area' is within the 'Urban Use' area for the purposes of this preliminary approval.

POTENTIAL PEDESTRIAN ACCESS TO FUTURE NEIGHBORHOOD CENTER AND LOCAL PARK (TO BE PROVIDED BY OTHERS)

POTENTIAL PEDESTRIAN ACCESS TO FUTURE BUS STOP (TO BE PROVIDED BY OTHERS)

All buildings and structures are to be located on land outside of the 'Bushland Area', unless otherwise approved by Council.

As amended in red by Redland City Council

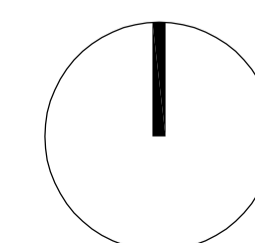


DISCLAIMER
This plan was prepared for Pradella Property Ventures for concept design purposes and must not be used for any other purpose. The dimensions, areas and total numbers of lots shown on this plan are subject to field survey and no reliance should be placed on the information on this plan for detailed subdivision design or for any commercial dealings involving the land.
COPYRIGHT
Copyright in this drawing is the property of BDA Architecture and may not be retained, copied in whole or in part or used other for the specific uses, licence and site for which it has been prepared and issued.

PROJECT NAME
VICTORIA POINT

DRAWING
INDICATIVE MASTER PLAN - BASE

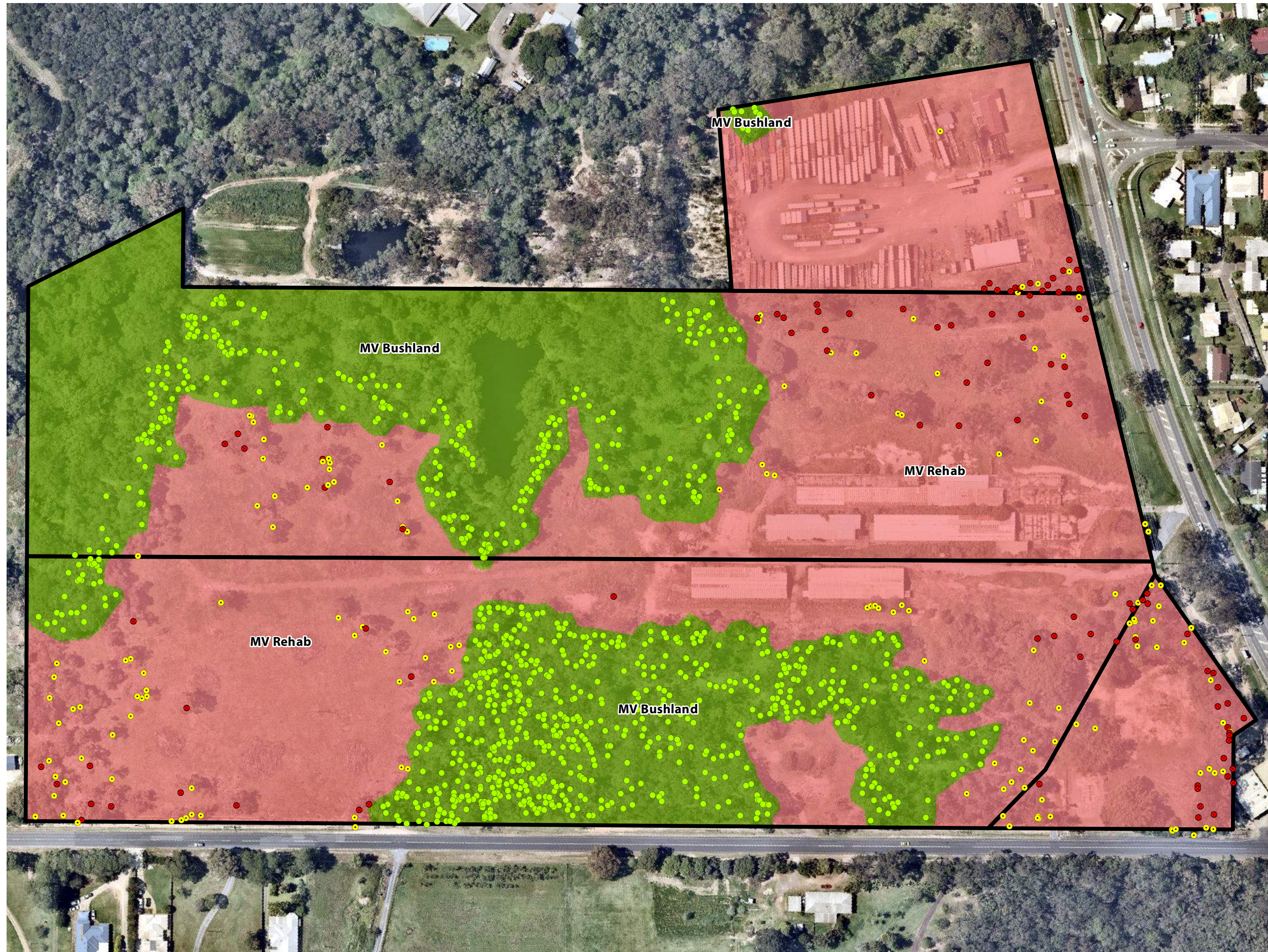
PROJECT NO.	DRAWING NO.	SCALE	ISSUE	DATE
390300	SK08	1:1000 @ A1 1:2000 @ A3	I	22 / 10 / 2019



50 Peerless Avenue
Mermaid Beach QLD 4218
Phone: 07 5555 2600
Email: info@bdaarch.com.au
ABN 77 081 702 301



4. Proposed Koala Mapping Amendments







NOTES
 This plan was prepared as a desktop assessment tool. The information on this plan is not suitable for any other purpose. Property dimensions, areas, numbers of lots and contours and other physical features shown have been compiled from existing information and may not have been verified by field survey. These may need verification if the development application is approved and development proceeds, and may change when a full survey is undertaken or in order to comply with development approval conditions. No reliance should be placed on the information on this plan for detailed design or for any financial dealings involving the land. Saunders Havill Group therefore disclaims any liability for any loss or damage whatsoever or howsoever incurred, arising from any party using or relying upon this plan for any purpose other than as a document prepared for the sole purpose of accompanying a development application and which may be subject to alteration beyond the control of the Saunders Havill Group. Unless a development approval states otherwise, this is not an approved plan.









Layer Sources: QLD GIS Layers (QLD Gov. Information Service 2018), Aerial (Nearmap 2018)

* This note is an integral part of this plan/data. Reproduction of this plan or any part of it without this note being included in full will render the information shown on such reproduction invalid and not suitable for use.

Legend

-  Project Site DCDB
-  Eucalyptus species in Proposed Medium Value Rehabilitation area
-  Non-Eucalyptus NJKHT species in Proposed Medium Value Rehabilitation area
-  Non-juvenile koala habitat tree in Proposed Bushland Habitat Value area

Koala Habitat Values (Proposed Changes)

- Bushland Habitat**
-  High Value Bushland
 -  Medium Value Bushland
 -  Low Value Bushland
- Suitable for Rehabilitation**
-  High Value Rehabilitation
 -  Medium Value Rehabilitation
 -  Low Value Rehabilitation
 -  Non-habitat
 -  Water

PLAN ISSUE:

Issue	Date	Description	Drawn	Checked
A	19/12/2018	Prelim Draft	TC	FM

0 10 20 40 60 80 100 m

Universal Transverse Mercator GDA 1994 MGA Zone 56 1:2,000 ©A3



Table G: Victoria Point Retirement Code	
Performance Outcome	Acceptable Outcomes
Communal and Private Open Space	
<p>PO1</p> <p>Developments involving more than 20 dwellings provide sufficient communal open space to:</p> <ul style="list-style-type: none"> (1) create useable, flexible spaces suitable for a range of activities; and (2) provide facilities including seating, landscaping and shade. 	<p>AO1.1</p> <p>Where development involves more than 20 dwellings, a minimum of 10% of the site area or a minimum area of 50m² (whichever is the greater) is provided as communal open space at ground level, with a minimum dimension of 5m.</p>
<p>PO2</p> <p>Development provides private open space that is:</p> <ul style="list-style-type: none"> (1) useable in size and shape to meet the needs of a diversity of potential residents; (2) functional and easily accessible from living or common areas to promotes outdoor living as an extension of the dwelling; (3) clearly identified as private open space; and (4) provides a high level of privacy for residents and neighbours. 	<p>AO2.1</p> <p>For a ground floor dwelling, ground floor private open space is provided with a minimum area of 16m².</p>
	<p>AO2.2</p> <p>For dwellings above ground level, private balconies are provided with a minimum area of 10m².</p>

	<p>AO2.3</p> <p>Where clothes drying areas are provided on private balconies they are screened from public view and do not take up more than 10% of the balcony area.</p>
Built form	
<p>PO3</p> <p>Development occurs on lots which provide sufficient space for buildings to be oriented to the street.</p>	<p>AO3.1</p> <p>The site has a minimum frontage of 20m.</p>
<p>PO4</p> <p>Site cover:</p> <p>(1) ensures development occurs at a house compatible scale and in a form that is consistent with the low-intensity character of the locality; and</p> <p>(2) allows for provision of substantive open space and landscaping on the site.</p>	<p>AO4.1</p> <p>Site cover does not exceed 50%</p>
<p>PO5</p> <p>Buildings are low rise and of a house compatible scale.</p>	<p>AO5.1</p> <p>Building height does not exceed 8.5m</p>
<p>AO6</p> <p>Building setbacks:</p>	<p>AO6.1</p> <p>Buildings are set back 6m from street frontages.</p>

<ul style="list-style-type: none"> (1) create an attractive, consistent and cohesive streetscape; (2) maintain appropriate levels of light and solar penetration, air circulation, privacy and amenity for existing and future buildings; (3) do not prejudice the development or amenity of adjoining sites; (4) assist in retaining native vegetation and allow for the introduction of landscaping to complement building massing and to screen buildings; (5) provide useable open space for the occupants; and (6) provide space for service functions including car parking and clothes drying. 	<p>AO6.2</p> <p>At the side boundary:</p> <ul style="list-style-type: none"> (1) a built to boundary wall does not exceed 4.5m in height and 9m in length along any one boundary; and (2) otherwise, buildings are set back a minimum of: <ul style="list-style-type: none"> (a) 1.5m for a wall up to 4.5m high; (b) 2m for a wall up to 7.5m high; and (c) 2.5m plus 0.5m for every 3m or part thereof by which the building exceeds 7.5m. <p>AO6.3</p> <p>The rear boundary setback is a minimum of 4m</p>
<p>PO7</p> <p>Design elements contribute to an interesting and attractive streetscape and building through:</p> <ul style="list-style-type: none"> (1) the provision of projections and recesses in the facade which reflect changes of internal functions of buildings, including circulation; (2) orientation of buildings to the street; (3) variations in material and building form; (4) modulation in the facade, horizontally or vertically; (5) articulation of building entrances and openings; and 	<p>No acceptable outcome is nominated.</p>

(6) corner treatments to address both street frontages.	
<p>PO8</p> <p>Design elements promote a subtropical and climate responsive design character through:</p> <p>(1) the use of deep verandahs, decks and eaves; and</p> <p>(2) integration of buildings within landscape planting.</p>	No acceptable outcome is nominated
<p>PO9</p> <p>Roof form assists in reducing the appearance of building bulk by:</p> <p>(1) articulating individual buildings;</p> <p>(2) incorporating variety in design through use of roof pitch, height, gables and skillions; and</p> <p>(3) screening plant and equipment, such as vents, air conditioners or solar energy and storm water collectors.</p>	No acceptable outcome is nominated.
<p>PO10</p> <p>Parking facilities are located so that they do not dominate the streetscape or the building form when viewed from the street.</p>	No acceptable outcome is nominated.
PO11	AO11.1

Development is designed to create an attractive streetscape and discourage crime and anti-social behaviour by:

- (1) maximising opportunities for casual surveillance of public places, pedestrian and cycle paths and car parking areas;
- (2) ensuring spaces are well lit;
- (3) minimising potential concealment and entrapment opportunities; and
- (4) providing direct movements with clear unobscured sight lines.

Buildings are designed to have balconies, windows and building openings overlooking streets and other public spaces. Figure 6.2.2.3.1 illustrates.

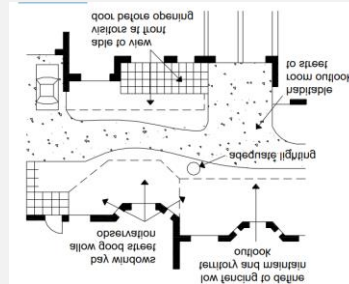


Figure 6.2.2.3.1—Overlooking

AO11.2

Fences or walls along a street frontage or public space have a maximum height of 1.8m.

PO12

On elevated or steeply sloping sites:

- (1) development is sympathetic to the natural landform through the use of terraced or split level building forms;
- (2) the understoreys of buildings are screened to maintain the quality of view when viewed from below; and
- (3) buildings avoid highly reflective finishes.

No acceptable outcome is nominated.

Amenity

PO13

Privacy between dwelling units on the site and adjoining sites is achieved by effective building design

AO13.1

Where habitable room windows are directly adjacent to habitable rooms of adjoining dwellings and are

<p>and the location of windows and outdoor open spaces to prevent overlooking into habitable rooms or private open space areas or through the use of screening devices. Where screening devices are used, they are integrated with the building design.</p>	<p>within a distance of 9m and within an angle of 45 degrees, privacy is protected by:</p> <ol style="list-style-type: none"> (1) sill heights being a minimum of 1.5m above floor level; or (2) providing fixed translucent screens, such as frosted or textured glazing, for any part of the window below 1.5m above floor level; or (3) providing fixed external screens. <p>AO13.2</p> <p>Where incorporating screening devices, they are:</p> <ol style="list-style-type: none"> (1) solid translucent screens or perforated panels or trellises that have a maximum of 25 % openings, with a maximum opening dimension of 50mm and that are permanently fixed and durable; and (2) offset a minimum of 300mm from the wall of the building.
<p>PO14</p> <p>On-site landscaping is provided to:</p> <ol style="list-style-type: none"> (1) enhance the appearance of the development; (2) complement any native vegetation within the site; (3) create green roofs, walls or other sustainable building elements; (4) provide privacy between dwellings; and (5) screen unsightly components. 	<p>No acceptable outcome is nominated</p>
<p>PO15</p> <p>Landscaping is provided along the full road frontage.</p>	<p>AO15.1</p> <p>A 2m wide landscaped area which is capable of deep planting to sustain mature trees, is provided along the length of any public road frontage.</p>

<p>PO16</p> <p>Development minimises impacts on surrounding residential amenity and provides a high level of on-site amenity for occupants, having regard to noise, odour, vibration, air or light emissions.</p>	<p>No acceptable outcome is nominated.</p>
<p>PO17</p> <p>Siting and design achieves a high level of amenity for occupants by minimising impacts from noise generating areas, such as streets, driveways, car parking areas, service areas, private and communal open space areas and mechanical equipment.</p>	<p>No acceptable outcome is nominated.</p>
<p>PO18</p> <p>Development minimises the extent of shadows on useable private open space or public spaces, and provides adequate sunlight to habitable rooms on the site and adjoining land.</p>	<p>AO18.1</p> <p>Solar access to habitable rooms and private open space of dwellings:</p> <ul style="list-style-type: none"> (1) is not less than 3 hours between 9am and 3pm on June 21; or (2) where existing overshadowing by building and fences is greater than this, sunlight is not further reduced by 20%.
<p>PO19</p> <p>Waste disposal and servicing areas are not visible from public places and do not have adverse amenity impacts on adjoining properties.</p>	<p>No acceptable outcome is nominated.</p>

<p>PO20</p> <p>The site layout responds to topography, natural values and development constraints, such that:</p> <ul style="list-style-type: none"> (1) impacts on ecological corridors and native vegetation are minimised and mitigated; and (2) alteration to natural topography and drainage lines is minimised. 	<p>No acceptable outcome is nominated.</p>

4. PROPOSED VARIATIONS TO PLANNING SCHEME

The proposed variations to the Local Planning Instrument (*Redlands City Plan 2018*) intends to provide for future development application(s) for Retirement Facility and/or Relocatable Home Park through a code assessable development application subject to specific assessment benchmarks.

The Preliminary Approval intends to vary the effect of the planning scheme as follows:

- Vary the Level of Assessment of the Emerging Community Zone
- Vary the Level of Assessment for the Overlays applicable to the site
- Establish an assessment benchmark (Victoria Point Retirement Code) which would be applicable to proposed development under this Preliminary Approval.

A detailed overview of the proposed variations is provided in Sections 4.1 – 4.3 of this report.

4.1. VARIED LEVEL OF ASSESSMENT – ZONE

The Preliminary Approval varies the level of assessment table for the Emerging Community Zone by making Retirement Facility and Relocatable Home Park ‘Code Assessable’ uses on the subject site. This is the extent of variation and the Emerging Community Zone level of assessment table is otherwise unaltered.

The proposed variation to the level of assessment is provided in **Table E** below.

Table E: Proposed Variation to Level of Assessment (Zone)		
Use	Categories of Development and Assessment	Assessment Benchmarks for Assessable Development and Requirements for Accepted Development
Relocatable Home Park Retirement Facility	Code Assessment	<ul style="list-style-type: none"> ▪ Victoria Point Retirement Code ▪ Healthy waters code ▪ Infrastructure works code ▪ Landscaping code ▪ Transport, servicing, access and parking code

4.2. VARIED LEVEL OF ASSESSMENT – OVERLAYS

It is also proposed to vary the level of assessment tables for certain overlays, as detailed in **Table E** below. Please refer to the succeeding sections of this report for further detail regarding the variation to each overlay.

Table F: Proposed Variation to Level of Assessment (Overlays)		
Use	Categories of Development and Assessment	Assessment Benchmarks for Assessable Development and Requirements for Accepted Development
Bushfire Hazard Overlay		
Where located within the 'Urban Use' Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	Not Applicable	Not Applicable
Where located within the 'Bushland' Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	No change to level of assessment	Bushfire Hazard Overlay Code where the development is assessable under the table of assessment for the relevant zone
Environmental Significance Overlay		
Where located within the 'Urban Use' Area of the Precinct Plan		

Material Change of Use for: Relocatable Home Park Retirement Facility	Not Applicable	Not Applicable
Where located within the 'Bushland' Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	No change to level of assessment	Environmental Significance Overlay Code where the development is assessable under the table of assessment for the relevant zone
Flood and Storm Tide Hazard Overlay		
Where located within the 'Urban Use' Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	Not Applicable	Not Applicable
Where located within the 'Bushland' Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	No change to level of assessment	Flood and Storm Tide Hazard Overlay Code where the development is assessable under the table of assessment for the relevant zone
Landslide Hazard Overlay		
Where located within the 'Urban Use' Area of the Precinct Plan		

4.2.1. BUSHFIRE HAZARD OVERLAY

A Bushfire Hazard and Risk Assessment has been prepared and provided in **Appendix F**. The site assessment confirms a hazard level of ‘Low’ for majority of the site with some smaller areas within and adjoining the site which are classified with a ‘Medium’ hazard level. The Bushfire Hazard and Risk Assessment recommends a perimeter road surrounding the development to act as a physical separation buffer from higher hazard vegetation to ensure the safety of residents and property. The Bushfire Hazard and Risk Assessment demonstrates that future development can comply with the Bushfire Hazard Overlay Code.

As the Bushfire Hazard and Risk Assessment demonstrates that future development can comply with the Bushfire Hazard Overlay Code, it is proposed that future development applications are not required to provide a response to the Bushfire Hazard Overlay Code. It is recommended that the approved conditions of the preliminary approval reflect the recommendations of the Bushfire Hazard and Risk Assessment.

4.2.2. ENVIRONMENTAL SIGNIFICANCE OVERLAY

An Environmental Assessment has been prepared and provided in **Appendix C**. The Environmental Assessment concludes and recommends the following in regard to future retirement facilities:

Material Change of Use for: Relocatable Home Park Retirement Facility	Not Applicable	Not Applicable
Where located within the ‘Bushland’ Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	No change to level of assessment	Landslide Hazard Overlay Code where the development is assessable under the table of assessment for the relevant zone
Waterway Corridors and Wetlands Overlay		
Where located within the ‘Urban Use’ Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	Not Applicable	Not Applicable
Where located within the ‘Bushland’ Area of the Precinct Plan		
Material Change of Use for: Relocatable Home Park Retirement Facility	No change to level of assessment	Waterway Corridors and Wetlands Overlay Code where the development is assessable under the table of assessment for the relevant zone

SARA reference: 1901-9543 SRA
Council reference: MCU19/0001

5 September 2019

Chief Executive Officer
Redland City Council
PO Box 21
CLEVELAND QLD 4163
damailbox@redland.qld.gov.au

Dear Sir/Madam

SARA response—673-685, 687-707 and 711-719 Redland Bay Road, Victoria Point and 10 Double Jump Road, Victoria Point

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 4 February 2019.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	5 September 2019
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Preliminary Approval (Variation Approval) to Vary the Effect of the Planning Scheme for a Material Change of Use for Retirement Facility and Relocatable Home Park.
SARA role:	Referral Agency.
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 – Aspect of development state in Schedule 20 (Planning Regulation 2017)

Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 -
Material change of use of premises near a State transport corridor or
that is a future State transport corridor.

SARA reference: 1901-9543 SRA
 Assessment Manager: Redland City Council
 Street address: 687-707, 673-685, 711-719 Redland Bay Road and 10 Double Jump Road, Victoria Point
 Real property description: Lot 10 on RP57455, Lot 29 on SP237942, Lot 2 on RP149315 and Lot 9 on RP57455
 Applicant name: Wolter Consulting Group, Miss Kimberley White
 Applicant contact details: PO Box 436
 NEW FARM QLD 4005
 kwhite@wolterconsulting.com.au
 State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved Reference: TMR19-026575
- Date: 2 September 2019

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Metropolitan.IDAS@tmr.qld.gov.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Richard Webber, Senior Planning Officer, on 56443230 or via email SEQSouthPlanning@dsgmp.qld.gov.au who will be pleased to assist.

Yours sincerely



Gareth Richardson
Manager, Planning and Development Services (SEQ South)

cc Miss Kimberley White, kwhite@wolterconsulting.com.au

enc Attachment 1 - Referral agency conditions
 Attachment 2 - Advice to the applicant
 Attachment 3 - Reasons for referral agency response
 Attachment 4 - Representations provisions
 Attachment 5 - Approved plans and specifications
 Attachment 6 –Decision Notice – Permitted Road Access Location (s62(1) of *Transport Infrastructure Act 1994*) which includes the Approved plan that is amended in red

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Preliminary Approval (Variation Approval) to Vary the Effect of the Planning Scheme for a Material Change of Use		
Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 and Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this preliminary approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	<p>The pedestrian and road access location from the state-controlled road (being Cleveland Redland Bay Road) to the development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • Indicative Master Plan-Base, prepared by BDA Architecture, dated 27 May 2019, drawing number SK08 and issue F, as amended in red to clearly show the only road access from the state -controlled road to the development. 	Prior to the commencement of use and to be maintained at all times.
2	<p>Road access works comprising a new signalised fourth leg to the Cleveland Redland Bay/Anita Street intersection including:</p> <ul style="list-style-type: none"> • one lane in each direction from the site and a 25 metre long signalised left turn slip lane on the exit lane • a 45 metre long right turn lane in Cleveland Redland Bay Road (turning into the site), • a 150 metre long approach lane and a 150 metre long departure lane on the northbound carriageway of Cleveland Redland Bay Road (totalling approximately 300 metres of additional through lane capacity). <p>must be provided at the permitted access location, generally in accordance with Austroads Guide to Road Design Part 4A – Unsignalised and Signalised Intersections and the Department of Transport and Main Roads Planning and Design Manual.</p>	Prior to commencement of use
3	<p>a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>b) Any works on the land must not:</p> <ol style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; (iv) reduce the quality of stormwater discharge onto the 	<p>(a) At all times.</p> <p>(b) At all times.</p>

	state-controlled road.	
--	------------------------	--

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.4. If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The proposed development complies with all applicable performance outcomes of the SDAP, State codes 1 and 6.
- The proposed development will not impact on the safety or operation of the state-controlled, subject to upgrades occurring.
- The proposed development will not have worsening or actionable nuisance for stormwater management to the state-controlled road

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.4]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

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Attachment 5—Approved plans and specifications

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RETIREMENT LIVING
(Up to 264 Dwellings)

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

SARA ref: 1901-9543 SRA

Date: 5 September 2019

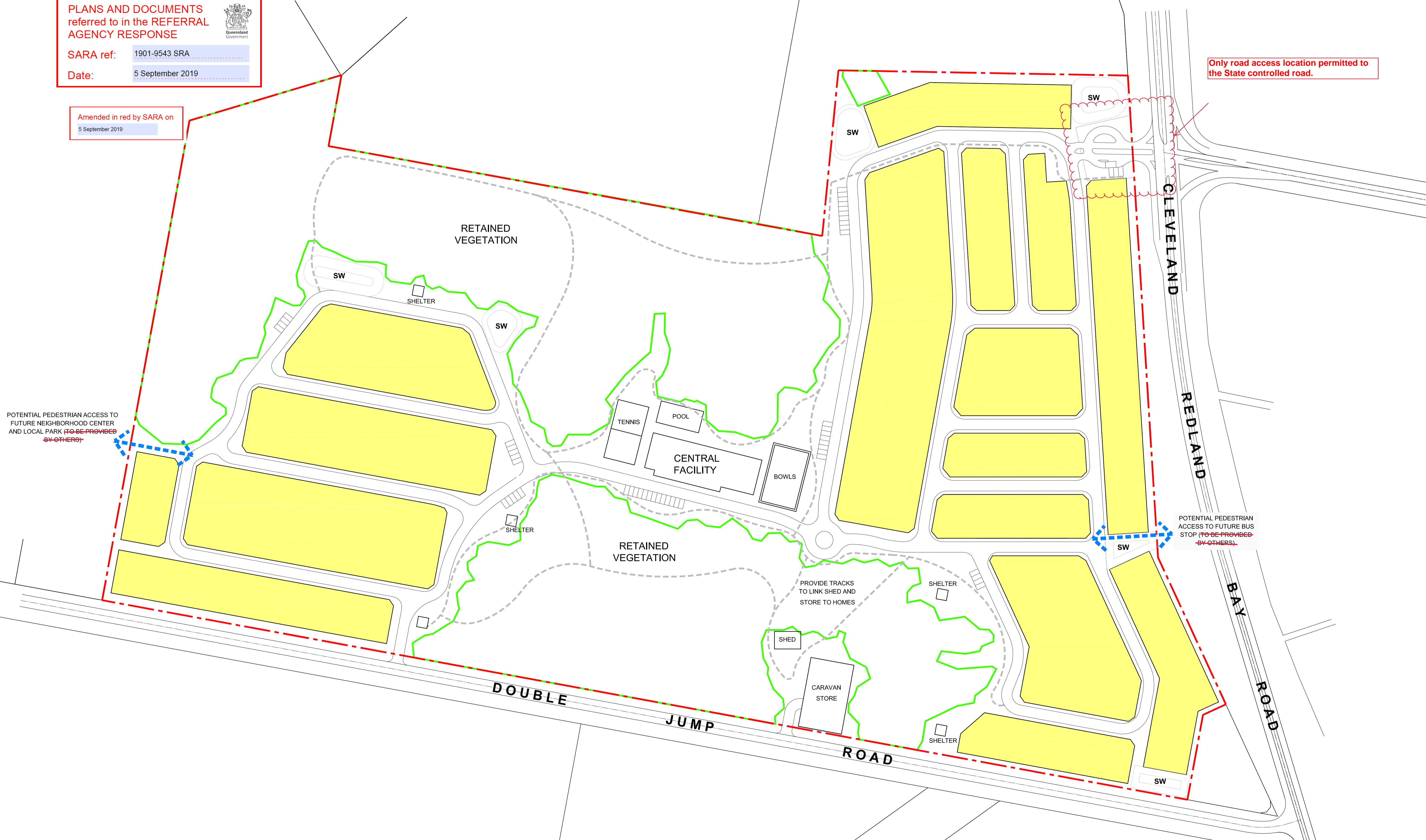


Amended in red by SARA on 5 September 2019

Only road access location permitted to the State controlled road.

POTENTIAL PEDESTRIAN ACCESS TO FUTURE NEIGHBORHOOD CENTER AND LOCAL PARK (TO BE PROVIDED BY OTHERS)

POTENTIAL PEDESTRIAN ACCESS TO FUTURE BUS STOP (TO BE PROVIDED BY OTHERS)

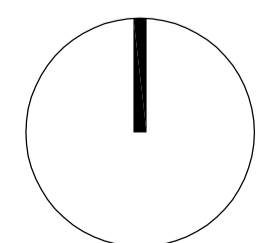


DISCLAIMER
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PROJECT NAME
VICTORIA POINT

DRAWING
INDICATIVE MASTER PLAN - BASE

PROJECT NO.	DRAWING NO.	SCALE	ISSUE	DATE
390300	SK08	1:1000 @ A1 1:2000 @ A3	F	27 / 05 / 2019



Suite 202, The Wave
89-91 Surf Parade,
Broadbeach QLD 4218
Phone: 07 5555 2600
Facsimile: 07 5526 8829
Email: bda@bdaarch.com.au
ABN 77 081 702 301



Our ref TMR19-026575
Your ref 18-0207P
Enquiries Melanie Packer



Department of
Transport and Main Roads

2 September 2019

Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number MCU19/0001, lodged with Redland City Council involves constructing or changing a vehicular access between Lots 10RP57455, 29SP237942, 2RP149315, 9RP57455, the land the subject of the application, and Cleveland – Redland Bay Road (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address Wolter Consulting Group Pty Ltd
PO Box 436
New Farm QLD 4005

Application Details

Address of Property 687 - 707 Cleveland Redland Bay Road, Victoria Point QLD 4165
Real Property Description 10RP57455, 29SP237942, 2RP149315, 9RP57455
Aspect/s of Development Preliminary Approval for Material Change of Use for Retirement facility, Relocatable home park

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
Road Access Location		
General		
1	The permitted road access location is directly opposite the intersection with Anita Street, in accordance with Indicative Master Plan - Base prepared by BDA Architecture dated 27 May 2019, reference 390300 SK08 and revision F, as amended in red.	At all times.
2	Road access works comprising a new signalised fourth leg to the Cleveland Redland Bay/Anita Street intersection including: <ul style="list-style-type: none">one lane in each direction and a 25m long signalised left turn	Prior to commencement of use

¹ Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	Condition Timing
	<p>slip lane on the exit lane,</p> <ul style="list-style-type: none"> • a 45m long right turn lane in Cleveland Redland Bay Road (leading into the site), • a 150m long approach lane and a 150m long departure lane on the northbound carriageway of Cleveland Redland Bay Road (ie totalling about 300m of additional through lane capacity). <p>must be provided at the permitted access location, generally in accordance with Austroads Guide to Road Design Part 4A – Unsignalised and Signalised Intersections and TMRs Road Planning and Design Manual.</p>	
6	<p>The existing road access works situated between Cleveland Redland Bay Road and 10RP57455, 29SP237942, 2RP149315, 9RP57455, and must be removed and all kerb and channel or table drain reinstated between the pavement edge and the property boundary in accordance with that immediately adjacent.</p>	<p>Prior to commencement of use</p>
4	<p>Direct access is prohibited between Cleveland Redland Bay Road and 10RP57455, 29SP237942, 2RP149315, 9RP57455 at any other location other than the permitted road access location described in Condition 1.</p>	<p>At all times.</p>

Reasons for the decision

The reasons for this decision are as follows:

- a) The development will generate significant traffic volumes on the state-controlled road network.
- b) The current intersection is unsignalized, TMR has a current active project to signalise this intersection.
- c) There will be very limited spare capacity in the signalised intersection to cater for traffic generated by this development.
- d) Additional works proposed are required to mitigate the impact of of this application and maintain acceptable traffic operations through the Cleveland Redland Bay Road/Anita Street intersection over a 10 year deisgn horizon.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Melanie Packer, A/Senior Town Planner should be contacted by email at Metropolitan.IDAS@tmr.qld.gov.au or on (07) 3066 5709.

Yours sincerely



Matthew Murray
Principal Officer (Town Planner - Development Control)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- The confirmation notice states the development proposal is for a retirement facility and relocatable home park.
- The traffic report states that the inclusion of the site access (without mitigation measures) in the Cleveland Redland Bay Road/Anita Street intersection would increase vehicle-minute delay by 235%.
- The traffic report states that the proposed mitigation measures would reduce this expected vehicle-minute delay to 0.6%.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
SARA outstanding Matters Response	Lambert & Rehbein	23/09/2019	B19115TL003_Final	-
Indicative Master Plan – Base (as amended in red)	BDA Architecture	27/05/2019	390300 SK08	F

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
 - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

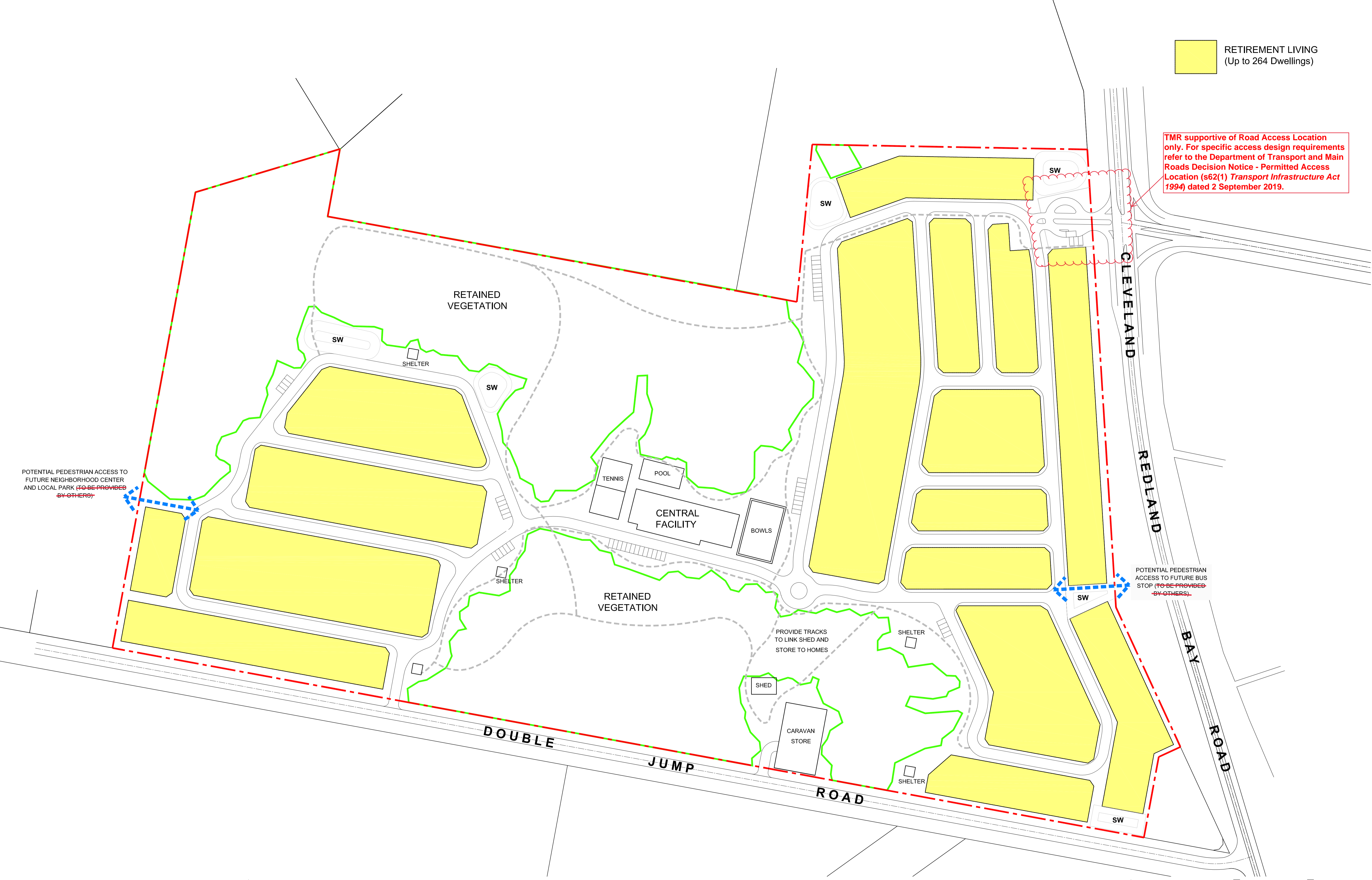
(3) Also, the appeal court may extend the period for appealing.

RETIREMENT LIVING
(Up to 264 Dwellings)

TMR supportive of Road Access Location only. For specific access design requirements refer to the Department of Transport and Main Roads Decision Notice - Permitted Access Location (s62(1) Transport Infrastructure Act 1994) dated 2 September 2019.

POTENTIAL PEDESTRIAN ACCESS TO FUTURE NEIGHBORHOOD CENTER AND LOCAL PARK (TO BE PROVIDED BY OTHERS)

POTENTIAL PEDESTRIAN ACCESS TO FUTURE BUS STOP (TO BE PROVIDED BY OTHERS)



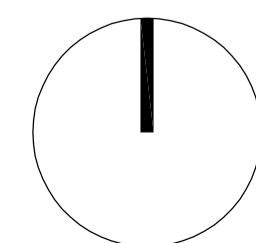
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Plan amended by the Department of Transport and Main Roads, 2 September 2019



Suite 202, The Wave
89-91 Surf Parade,
Broadbeach QLD 4218
Phone: 07 5555 2600
Facsimile: 07 5526 8829
Email: bda@bdaarch.com.au
ABN 77 081 702 301



Getting a Road Access Works Approval (including a driveway) onto a State-controlled Road (under sections 33 and 62 of the *Transport Infrastructure Act 1994*) to undertake works required by a development approval condition.

All road access works (including a driveway) must be constructed in accordance with the Department of Transport and Main Roads' standards for road access works and located at a permitted road access location that has been approved by the department. Construction must be managed to ensure no adverse safety impacts for road users and construction workers. The details about the permitted road access location and road access works required will be included as conditions of approval on the decision notice.

Even though a development approval has been given it is still necessary to obtain approval to construct road access works within the State-controlled road corridor from the department.

Step 1: Application

The road access works application must be made on the approved form which is available from the local Transport and Main Roads office (contact details on the back of this page) or at

<http://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Other-matters-requiring-approval.aspx>.

What you need to provide

Depending on the size and scale of the access, the following information may be needed:

- Construction drawings which show:
 - the road access location (as shown on the approved plans);
 - surface of the access;
 - grades of the access;
 - location of any roadside gullies, street trees or public utilities that may affect the grade of position of the access
 - details about the estimated cost of the works (for calculating bond amount if required)
 - photographs or notes detailing any existing damage to the State-controlled road.

Hand drawn construction drawings are acceptable for residential properties only. Commercial property accesses must be scaled at 1:50 and prepared by a RPEQ.

The access approval process takes time. The amount of time depends on the road access works required. For this reason, it is important you contact TMR as soon as possible to ensure that gaining approval does not delay construction.

Step 2: Approval to construct the access

Where road access works may pose a safety risk to road users, approval may be conditional upon providing the department a traffic management plan before construction begins.

Depending upon the nature of the works proposed, the department may require a performance bond to ensure the works are completed as required.

These conditions will be included in the road access works approval. When all conditions of the road access approval have been fulfilled, TMR will issue an authority to commence construction and work may begin.

What you may need to provide

Before construction can begin the department may require:

- a meeting onsite prior to the start of construction
- the proposed timing and duration of works; and/or
- an indemnity signed by the contractor
- a performance bond
- a traffic management plan.

Step 3: Evidence of Construction of the Access

The department may need you to provide evidence that the access was constructed as approved.

Important Note:

It is important to read and understand all approvals given to you by the department as you must comply with them. If you do not understand something or have any additional questions, contact the Department of Transport and Main Roads office that issued the approval.

Contact details for Transport and Main Roads offices.

To lodge your application or if you require any assistance with finalising your application email, contact your local TMR office. To find out which office is your local office, call 132380 or go to www.tmr.qld.gov.au/About-us/Contact-us/In-person/Roads-offices.aspx.

Office	Email	Phone
Barcaldine	barcaldine.office@tmr.qld.gov.au	4651 2777
Rockhampton	corridormanagement@tmr.qld.gov.au	4931 1559
Roma	downsswr.office@tmr.qld.gov.au	4622 9511
Toowoomba	downsswr.office@tmr.qld.gov.au	4639 0777
Cairns	cairns.office@tmr.qld.gov.au	4045 7144
Mackay	mackay.whitsunday.idas@tmr.qld.gov.au	4951 8555
Brisbane	metropolitan.idas@tmr.qld.gov.au	3066 5499
Maroochydore	north.coast.idas@tmr.qld.gov.au	5451 7055
Cloncurry	cloncurry.office@tmr.qld.gov.au	4769 3200
Townsville	towdawe@tmr.qld.gov.au	4421 8700
Gold Coast	scrcmallocations@tmr.qld.gov.au	5563 6600
Bundaberg	wide.bay.burnett.idas@tmr.qld.gov.au	4154 0200
Barcaldine	barcaldine.office@tmr.qld.gov.au	4651 2777

Planning Act 2016 – Change representation provisions

The following provisions are the **change representation provisions** as defined in the Planning Act 2016, section 75.

Chapter 3 Development Assessment

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

75 Making change representations

- 1) The applicant may make representations (***change representations***) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - i. a matter stated because of a referral agency's response; or
 - ii. a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- 2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- 3) Only 1 notice may be given.
- 4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - i. the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - ii. the applicant receives notice that the assessment manager does not agree with the change representations; or
 - iii. the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.

- 5) (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- 1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.
- 2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
 - (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - i. each principal submitter; and
 - ii. each referral agency; and
 - iii. if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - iv. if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - v. another person prescribed by regulation.
- 3) A decision notice (**a negotiated decision notice**) that states the assessment manager agrees with a change representation must—
 - (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- 4) A negotiated decision notice replaces the decision notice for the development application.
- 5) Only 1 negotiated decision notice may be given.
- 6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.