

19.1 CLAY GULLY PTY LTD V REDLAND CITY COUNCIL (PLANNING AND ENVIRONMENT COURT APPEAL 566 OF 2020)

Objective Reference:

Authorising Officer: David Jeanes, Acting General Manager Community & Customer Services

Responsible Officer: Chris Vize, Acting Group Manager City Planning & Assessment

Report Author: Michael Anderson, Senior Appeals Planner

Attachments:

1. Locality Plan
2. Site aerial
3. Amended DILGP Concurrence Response
4. General Meeting Report and Minute
5. Planning and Environment Court Notice of Appeal
6. Court Order
7. Reconfiguration Plan
8. Relevant Planning Scheme Extracts
9. Reasons for Refusal

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 Clay Gully Pty Ltd (Clay Gully) v Redland City Council (Council) (Planning & Environment Court Appeal 566/2020), which is a deemed refusal appeal.

BACKGROUND

Council (the respondent) is required to confirm its position on the development application in the Planning & Environment Court appeal by 1 May 2020.

The Development Application

Council received an application on behalf of the then applicant Ausbuild Pty Ltd (Applicant) on 30 March 2015 seeking a development permit for reconfiguring a lot for 267 lots, open space, an ecological corridor and road, over 8 stages on land at 21-29 & 31 Clay Gully Road and 39 Brendan Way, Victoria Point (Council reference: ROL005912) and more properly described as Lot 1 on RP72635, Lot 4 on RP57455 and Lot 1 on RP95513. The location of the site is shown in **Attachment 1 and 2**. At the time the application was properly made the site was owned by:

- [REDACTED] (lot 1 on RP72635) – 86 Bunker Road, Victoria Point
- [REDACTED] (Lot 1 on RP95513) – Part of 31 Clay Gully Road, Victoria Point
- [REDACTED] (Lot 4 on RP57455) – 21-29 Clay Gully Road, Victoria Point

The application was properly made on 30 March 2015 and subject to impact assessment.

The application triggered State referral for:

1. Regional Plan
2. Development impact on State transport infrastructure

The State provided its response on 15 December 2016, with subsequent updates to account for the minor changes to the application, requiring conditions be applied to any approval issued by Council. These included alterations to Clay Gully Road at its eastern end to incorporate a left turn slip lane at the intersection with Cleveland-Redland Bay Road (and other associated works) and design requirements for the main access into the site to ensure it could accommodate a single unit rigid bus of 12.5m in length.

In addition, the State set out advice to Council highlighting that local and regional development areas under the 2009 regional plan are no longer considered development areas for the purposes of the Planning Regulation 2017, and as such it is Council's responsibility to ensure the land is developed efficiently and at a density that will enable the dwelling targets under the new regional plan to be met.

A response to Council's and the Department of Infrastructure, Local Government and Planning (DILGP) information request was made on behalf of the applicant on 16 November 2015. The final concurrence agency response, dated 22 November 2017, is attached to this report (**Attachment 3**).

Public notification of the development application was undertaken between 19 November 2015 and 11 December 2015.

The development application was reported to the General Meeting of Council on 21 March 2018 with a recommendation of approval, subject to conditions.

At this meeting the following resolution was made:

'That Council resolves that the application is deferred until a Council led Structure Plan is completed for the whole emerging community zone situated between Bunker Road, Double Jump Road, Brendan Way and Clay Gully Road, specifically, the Victoria Point Local Development Area'

A copy of the agenda report and extract from the General Meeting minute is provided at **Attachment 4**.

It is understood that Clay Gully Pty Ltd (Appellant) became the registered owner of part of the Land, being lot 1 on SP292896, Lot 4 on RP57455 and lot 1 on RP95513, on or about the 17 July 2018.

Consent for a minor change to change the applicant to Clay Gully Pty Ltd (Clay Gully), pursuant to s351 (4) of the *Sustainable Planning Act 2009* (the SPA) was provided on 31 August 2018.

Infrastructure Agreement

An infrastructure agreement (IA) was entered into by the former land owner (Ausbuild) and Council regarding the land and proposed development and signed by Council on 7 March 2018 (commencement date). A summary of the IA is as follows:

- Financial contribution of [REDACTED] for wastewater infrastructure for the future upgrade of the Victoria Point Wastewater treatment plant.
- Work contribution for the construction of a 300mm sewer gravity main.
- Land contribution for the provision of land for an easement of a minimum width of 4 metres for wastewater infrastructure being the gravity main.

- Work contribution for road crossing treatments to facilitate safe fauna movement opportunities.

The IA applies to the owner and owner's subsequent successors in title. The IA purports to address development conditions (of a prescribed approval). In the absence of an approval the IA has no effect.

The Appeal

Section 318 of the Sustainable Planning Act (SPA) identifies that the assessment manager must decide the application within 20 business days after the day the decision stage starts (the **decision-making period**), unless otherwise agreed by the applicant. The decision was due by 8 September 2017. Section 229, 311 and Schedule 1 of the *Planning Act 2016* include the relevant appeal provisions.

The Notice of Appeal (NoA) was filed with the Planning & Environment Court on 25 February 2020.

The NoA seeks the following orders:

- That the appeal be allowed.
- That the development application be approved.
- Such further or other orders as the Court deems appropriate.

Full grounds outlined in the NOA are included at **Attachment 5**.

On 3 March 2020 a Notice of Election (NoE) was filed in the P & E Court on behalf of Edgarange Pty Ltd as co-respondent by election.

A review was held on 17 April 2020 where it was ordered that Council as respondent is required to provide an indication of its position on the appeal by 1 May 2020. A copy of the Order is included at **Attachment 6**.

City Plan Major Amendment: South West Victoria Point Structure 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) 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*.

The relevant planning background to the subject area (in the context of preparation of the structure plan) is summarised as follows:

- **2005:** the South East Queensland (SEQ) Regional Plan 2005 (SEQ Regional Plan 2005) identified the majority of the subject area as being included within the urban footprint preferred dominant land use category;
- **2006:** under the Redlands Planning Scheme 2006 (RPS 2006) the broader area was predominantly retained within a rural non-urban and conservation zone;
- **2009:** Within the subsequent SEQ Regional Plan 2009, the area was identified as the Victoria Point Local Development Area (VPLDA). The area identified the area's potential suitability for future development, subject to further investigations, structure planning and monitoring of land supply;
- **September 2012:** Council resolved to defer structure planning of the area until such time as the new City Plan commenced;

- **March 2015:** Council received a development application over land located in the eastern portion of the area (21-29 and 31 Clay Gully Road and 39 Brendan Way) seeking reconfiguration approval to create approximately 289 lots;
- **September 2015:** The draft City Plan was released for public consultation and included the VPLDA within the emerging community zone;
- **October 2016:** The draft SEQ Regional Plan 2016-2041 was released for public notification and proposed the removal of the VPLDA designation, but retained the area within the urban footprint regional land use category;
- **August 2017:** The final *SEQ Regional Plan 2017* removed the previously designated VPLDA but retained the area within the urban footprint;
- **March 2018:** Council resolved to defer a decision on the application lodged over 21-29 and 31 Clay Gully Road and 39 Brendan Way until such time as a Council led structure plan was completed for the whole Victoria Point structure planning area;
- **July 2018:** Council adopted its new City Plan (which commenced October 2018), with the Victoria Point structure plan area included within the emerging community zone. The overall outcomes of this zone continued to require that structure planning of the area within the zone is undertaken in advance of any reconfiguration or development for urban purposes; and
- **October 2018:** Following commencement of the new City Plan, Council resolved at its General Meeting on 10 October 2018, to prepare a structure plan and undertake a major amendment to the City Plan in accordance with Part 4 Section 16.1 of the *Minister's Guidelines and Rules* under the *Planning Act 2016* (PAct).
- **November 2019:** 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): South West Victoria Point Local Plan was referred to the Minister for first state interest check. The State's first state interest review comments have been received and Council is in the process of responding to the comments.

Relevant extracts from the draft South West Victoria Park Local Plan (SWVPLP) are provided in **Figures 1 and 2** below.



Figure 1 – Extract from draft Major Amendment Package (05/19): South West Victoria Point Local Plan (Land Use Zone)

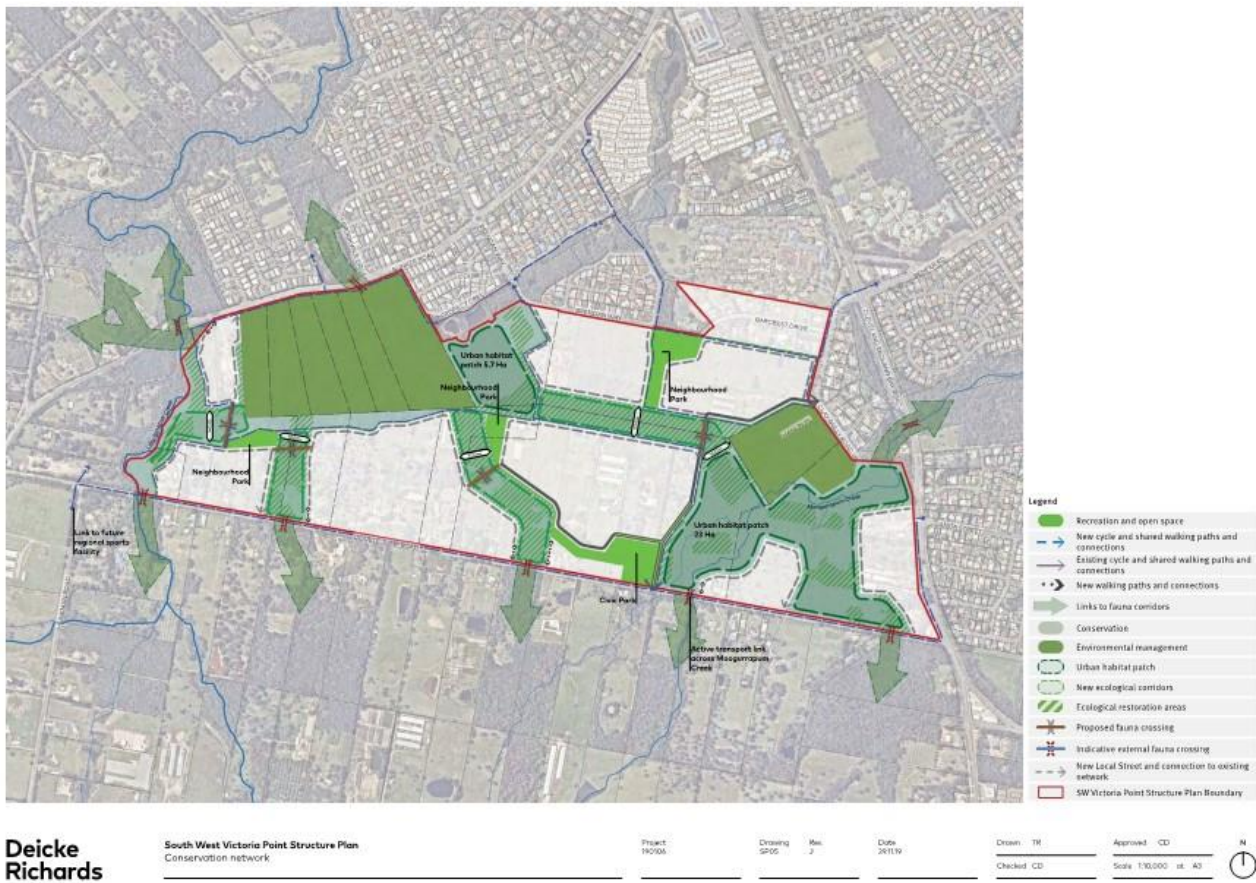


Figure 2 - Extract from draft Major Amendment Package (05/19): South West Victoria Point Local Plan (Conservation network)

Draft Environmental Major Amendment Package (04/19)

Proposed amendments to the environmental significance overlay mapping are currently being prepared and comments have been received from the State at first state interest check. Proposed changes to the mapping do not change the general approach and decision to only map areas of existing vegetation on the environmental significance overlay. The draft and any proposed changes to the overlay mapping will not change the higher order provisions in the Strategic Framework of City Plan, applying to this development application. Further discussion is provided in the environmental values section of this report.

Development Proposal & Site Description

Proposal

The applicant has applied for a development permit for the reconfiguration of a lot, which following a number of changes is proposed to be for a 3 into 270 lot subdivision with open space, ecological corridor, stormwater management areas and road.

A summary of the proposal is provided below:

Aspect of proposal	Detail/comment
Total site area:	22.793ha
Number of existing lots:	3
Number of proposed lots:	270
Lot sizes:	400m ² to 4553m
Net residential density:	13 dwellings per hectare
Minimum lot frontage widths	12.5m
Access:	Via: <ul style="list-style-type: none"> - A new 25m wide new road connecting lots within stage 3-8 to Clay Gully Road. - A new 15m wide road access off Brendan Way for lots in Stage 1 & 2.
Covenants, easements or restrictions:	None
Land contamination:	None
PIP:	Park on adjoining site to the east: VPRP-018 Stormwater: Along Clay Gully Rd.

The latest reconfiguration of a lot plan is contained at **Attachment 7**.

Changes to the proposal

On three occasions during the decision stage of the application the applicant notified Council and the Department of Infrastructure, Local Government and Planning (DILGP) that minor changes had been made to the proposal. These are detailed below:

16 November 2015 – Response to RCC Information Request - Layout revision C

The first change to the application occurred in response to an Information Request issued by Officers. It made a number of changes to the application, including the following:

- Reduction in number of lots from 289 to 266 lots
- Increased lot sizes for lots adjoining Park Residential zoned properties (Hanlin Place and Barcrest Drive) – minimum 800m²
- Increased lot sizes adjoining Brendan Way to be more consistent with the existing density in the street
- Road and lot configuration changes
- Minimum lot size maintained as 312m²
- Local park added adjoining the Victoria Point Baptist Church in the north of the site.

18 July 2017 – Minor Change - ROL Layout Revision I

- Increase in proposed number of lots from 266 to 285 lots
- Various changes to lot sizes, with the minimum proposed to be increased to 350m²
- The large vendor lots in the westernmost part of the site slightly reduced in size to accommodate widening of Brendan Way (from 20,749m² to 20,622m²)

- Lots adjoining Hanlin Place properties reduced in size from an average of 800m² to an average of 775m², with the depth of lots reducing from 40m to 31m and the width of lots increasing from 20m to 25m. The total number of lots adjoining Hanlin Place properties reduced from 14 lots to 11 lots. These changes have been made to accommodate the widening of the access road.
- Removal of the east-west road connection through the estate to address submitter concerns that the link will create a rat run for drivers wishing to skip congestion and signalised intersections along Cleveland-Redland Bay Road. This has consequential lot configuration changes – road and lot layout.
- Changes to staging – this is a result of changes to the road and lot layout.
- Changes to the extent of open space provision. The local park previously located along the northern boundary was removed following officer advice that the infrastructure was not considered to be trunk. The layout reverted to the original proposal, that lots be located in this area.
- Minor changes to the configuration to stormwater management areas.

29 August 2017 – Minor Change - ROL Layout Revision J

- Decrease in the number of lots from 285 lots to 263 lots
- Various changes to lot sizes, within the minimum lot size increased to 400m²

13 November 2017 – Minor Change - ROL Layout Revision K

- Introduction of an east-west corridor along the southern boundary of the site
- Alteration to the north-south corridor/drainage line – reducing the width of the corridor from 70m to 47m, consistent with the connecting corridor to the north of the site.
- Subsequent changes to lot and road layout and associated changes to lot size (no change to the minimum lot size)

All proposed changes were considered to be a minor change, in accordance with the definition outlined in section 350 of the *Sustainable Planning Act 2009*. This means they do not result in additional referral triggers, they do not change the type of development proposed or the level of assessment and they are not considered to result in substantially different development.

A review of the proposed changes has been undertaken pursuant to section 52 of the *Planning Act* (PAct) and the definition of a minor change contained within schedule 2 of the PAct and the changes are still considered to be minor changes.

The majority of these changes are easily identifiable as minor in nature, especially within the context of the application, however two key changes may be deemed more complex and therefore necessitate further explanation. These are the changes proposed along the northern boundary of the site as part of revision I, specifically the removal of the proposed local park and reintroduction of lots adjoining the Baptist church and also the reduction in lot size of all proposed lots along the northern boundary (adjoining Barcrest Drive properties). For these matters the relevant part of the test to consider is whether these changes comprise “*substantially different development*”. In this regard Schedule 1 of the *Development Assessment Rules* provides some further clarification on what this means, specifically:

- a) Involves a new use
- b) Results in the application applying to a new parcel of land
- c) Dramatically changes the built form in terms of scale, bulk and appearance
- d) Changes the ability of the proposal to operate as intended
- e) Removes a component that is integral to the operation of the development
- f) Significantly impacts on traffic flow and the transport network, such as increasing the traffic to the site
- g) Introduces new impacts or increases the severity of known impacts
- h) Removes an incentive or offset component that would have balance a negative impact of the development
- i) Impacts on infrastructure provision, location or demand.

The most relevant point for these changes is g). In this regard it should be noted that the original layout proposed 29 lots along the boundary with Barcrest Drive properties this was reduced to 15 following the response to Council's Information Request and increased to 28 lots in response to Council's further request for information.

In relation to the four lots proposed adjoining the Victoria Point Baptist Church the perceived impact of the change relates to reverse amenity impacts that would result from noise complaints from future residents of the proposed lots. The applicant included evidence from an acoustic consultant that noise impacts could be managed, conditions can be included to ensure these impacts are addressed. This information was reflected in the noise section of the original General Meeting report. These changes are not therefore considered to result in a change that is substantially different development.

In relation to the remaining lots:

- 6 and 8 Barcrest Drive will have 3 additional lots than in the previous layout
- 4 Barcrest Drive will have 2 additional lots
- 19 Clay Gully Road will have 1 additional lot

The dwelling house associated with 19 Clay Gully Road is located the closest to the adjoining boundary and is set back approximately 10m from the boundary and incorporates a dam and vegetation along this boundary. It will experience only one additional lot than the previous layout plan and as such, and within this context the change is not considered to increase the severity of a known impact.

The other three dwelling houses are set back 20-28m from the adjoining boundary and all have mature vegetation interspersed along the boundary. The large scale of the properties and significant setbacks of the dwelling houses means there is also capacity to increase landscape planting should it be preferred. Two of the properties (4 & 6 Barcrest Drive) comprise large sheds along that boundary (15-20m long), with the other (8 Barcrest Drive) having an approved shed along the same boundary that is not yet constructed. These structures provide additional screening.

It is important to consider, however, that the test must be considered within the context of the development as a whole and the overall impact of the development. Within this context the impact resultant of the additional lots is considered negligible and is not therefore considered to result in substantially different development.

Site & Locality

The application relates to Lot 1 on RP72635, Lot 4 on RP57455 and Lot 1 on RP95513 with a street address of 21-29 & 31 Clay Gully Road and 39 Brendan Way Victoria Point (see **Attachment 1 & 2**).

The lots have been historically used for rural uses/hobby farming and contain existing residential dwellings, outbuildings, and two dams. The lots are largely devoid of vegetation, with only a scattering of trees throughout the 22ha.

A poultry farm was previously operational upon Lot 1 on RP72635. While the chicken sheds remain in situ, the use has ceased.

The existing dwellings and outbuildings to the far western boundary of Lot 1 are to be retained and located within one of the new residential allotments.

Land Use Designation at time the Development Application was Properly Made

In accordance with section 45 (7) of the *Planning Act 2016* (PAct) an assessment manager must assess the development application against or having regard to the statutory instrument, as in effect when the development application was properly made. The development application was properly made on 30 March 2015.

The SEQ Regional Plan 2009 – 2031 (SEQRP 2009) designates the area as a potential development area, known as the Victoria Point Local Development Area (VPLDA), within the urban footprint.

The site was zoned Rural Non-Urban under the Redlands Planning Scheme v7 (RPS) (refer to **Attachment 8**) which took effect on 20 March 2015. The Scheme's Habitat Protection Overlay, Waterways, Wetlands and Moreton Bay Overlay, Acid Sulfate Soils Overlay, Bushfire Hazard and Protection of the Poultry Industry Overlay are all relevant.

ASSESSMENT FRAMEWORK

Chapter 8 (Transitional provisions and repeal), Division 6, Section 311 (4) of the PAct states that in circumstances where appeal proceedings are brought after the commencement of the PAct, the proceedings must be 'brought only under' the PAct. The Court has previously considered the issue of development applications made under the *Sustainable Planning Act 2009* (SPA), but decided after the PAct commenced. Particularly, whether an appeal to the Planning & Environment Court involving such a development application is to be decided in accordance with the SPA or PAct. For example, in the case of *Jakel Pty Ltd v Brisbane City Council [2018] QPEC 21* (Jakel), the Court determined that the PAct's regime will apply.

In circumstances where a deemed refusal appeal has been filed in the Court, and in accordance with the Jakel case outlined above, the development application is considered to be appropriately assessed against the assessment regime within the PAct.

In accordance with section 45 of the *Planning Act 2016*:

(5) 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*
- (6) Subsections (7) and (8) apply if an assessment manager is, under subsection (3) or (5), assessing a development application against or having regard to—*
- (a) a statutory instrument; or*
- (b) another document applied, adopted or incorporated (with or without changes) in a statutory instrument.*
- (7) The assessment manager must assess the development application against or having regard to the statutory instrument, or other document, as in effect when the development application was properly made.*
- (8) However, the assessment manager may give the weight the assessment manager considers is appropriate, in the circumstances, to—*
- (a) if the statutory instrument or other document is amended or replaced after the development application is properly made but before it is decided by the assessment manager—the amended or replacement instrument or document; or*
- (b) another statutory instrument—*
- (i) that comes into effect after the development application is properly made but before it is decided by the assessment manager; and*
- (ii) that the assessment manager would have been required to assess, or could have assessed, the development application against, or having regard to, if the instrument had been in effect when the application was properly made.*

Section 31 of the *Planning Regulation 2017* identifies that:

- (1) For section 45(5)(a)(ii) of the Act, the impact assessment must be carried out having regard to—*
- (a) the matters stated in schedules 9 and 10 for the development; and*
- (b) if the prescribed assessment manager is the chief executive—*
- (i) the strategic outcomes for the local government area stated in the planning scheme; and*
- (ii) the purpose statement stated in the planning scheme for the zone and any overlay applying to the premises under the planning scheme; and*

- (iii) *the strategic intent and desired regional outcomes stated in the regional plan for a region; and*
- (iv) *the State Planning Policy, parts C and D; and*
- (v) *for premises designated by the Minister—the designation for the premises; and*
- (c) *if the prescribed assessment manager is a person other than the chief executive or the local government—the planning scheme; and*
- (d) *if the prescribed assessment manager is a person other than the chief executive—*
 - (i) *the regional plan for a region; and*
 - (ii) *the State Planning Policy, to the extent the State Planning Policy is not identified in the planning scheme as being appropriately integrated in the planning scheme; and*
 - (iii) *for designated premises—the designation for the premises; and*
- (e) *any temporary State planning policy applying to the premises; and*
- (f) *development approval for, and any lawful use of, the premises or adjacent premises; and*
- (g) *common material.*

The table below identifies the applicable assessment benchmarks, matters prescribed by regulation and other relevant matters that should be considered in the assessment of the development application.

Assessment Benchmarks:	<p>RPS (Version 7) (took effect 20 March 2015)</p> <ul style="list-style-type: none"> • Desired environmental outcomes • Rural non-urban zone code • Acid sulphate soils overlay code • Bushfire hazard overlay • Flood prone, storm tide and drainage constrained land overlay code • Habitat protection overlay code • Protection of poultry industry overlay code • Waterways, wetlands and Moreton Bay overlay code • Reconfiguration code • Access and parking code • Excavation and fill code • Development near underground infrastructure code • Erosion prevention and sediment code • Infrastructure works code • Landscape code • Stormwater management code <hr/> <p>City Plan (V4) (took effect 19 February 2020)</p> <ul style="list-style-type: none"> • Strategic framework • Emerging community zone code • Bushfire hazard overlay code • Environmental significance overlay code • Healthy waters code • Infrastructure works code • Landscape code • Reconfiguring a lot code
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	<ul style="list-style-type: none"> • Transport, servicing, access and parking code
Matters prescribed by Regulation	<ul style="list-style-type: none"> • <i>State Planning Policy 2014 (July)</i> • <i>State Planning Policy 2016 (April)</i> • <i>State Planning Policy 2017</i> • <i>SEQ Regional Plan 2009</i> (relevant at time of lodgement) • <i>SEQ Regional Plan 2017</i>
Other relevant matters	<ul style="list-style-type: none"> • Draft Major Amendment Package (05/19): South West Victoria Point Local Plan • Draft Environmental Major Amendment Package (04/19)

Decision making framework

Section 60 of the *Planning Act 2016* states 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.*

APPLICATION ASSESSMENT

In the circumstances of a deemed refusal appeal to the Planning and Environment Court (the Court), the Court takes on the role of the assessment manager for the appeal. In accordance with s45 of the PAct an impact assessment must be carried out against the assessment benchmarks in the categorising instrument and having regard to any matters prescribed by regulation. Section 31 of the *Planning Regulation 2017* (PReg) identifies, amongst other matters, that the strategic intent and desired regional outcomes stated in the regional plan for the region must be given regard.

The PAct identifies that the assessment manager must assess the development application against or having regard to the statutory instrument, or other document, as in effect when the development application was properly made. However, importantly, the assessment manager may give weight it considers appropriate to another statutory instrument that has been amended or replaced and came into effect after the development application is properly made but before it is decided. This is a key difference from the previous assessment that was reported to the General Meeting of Council on 21 March 2018 and its relevance is discussed in a following section of this report.

As identified above, at the time this development application was properly made (30 March 2015), the SEQ Regional Plan 2009 (SEQRP) and RPS (version 7) were in effect. The SEQRP 2017 took effect in August 2017 and Redland City Plan 2018 (version 4) (City Plan) commenced on 19 February 2020.

In accordance with the PAct, the Court in deciding the application, can afford weight to the new statutory instruments that came into effect since the development application was properly made.

Whilst an assessment of the development application has been undertaken against the relevant planning framework at this time, due to the strict and limited timescales imposed by the Court, the following assessment section identifies the key issues by exception.

This report provides an update of the planning assessment framework since this original assessment and discusses the key issues that have led to a change in recommendation from officers. The assessment benchmarks associated with issues such as layout and design, open space, earthworks, traffic and access impacts and reverse amenity have not substantively changed or could be appropriately conditioned in order to comply with these assessment benchmarks. Accordingly, they have not been discussed in greater detail within this report. A copy of the original report to the General Meeting of Council dated 21 March 2018 is contained at **Attachment 4**.

The key issues identified in this assessment are:

- Assessment rules (Sustainable Planning Act v Planning Act)
- Consistency with planning framework
- Environmental values
 - Habitat protection and environmental significance overlay
- Infrastructure
 - Sewer
 - Road network
- Prematurity.

Assessment Rules (Sustainable Planning Act v Planning Act)

As set out in the proceeding section of this report the original development application was submitted under the SPA, however in a deemed refusal appeal scenario such as this, the Court (standing in the place of the assessment manager) will assess the development application pursuant to the PAct.

This is relevant in the context of the previous assessment and officer's recommendation made to the General Meeting on 21 March 2018. There are important differences in the decision rules between the SPA and the PAct and the most relevant are summarised below:

- Section 314 of the SPA sets out the matters an assessment manager must assess the application against and includes an SPRP, Regional Plan, State Planning Policy and a planning scheme (amongst other things).
- Under the SPA the assessment manager's decision must not conflict with a relevant instrument unless there are 'sufficient grounds' to justify the decision, despite the conflict (s326 (1) (b)).
- Pursuant to s317 of the SPA an assessment manager may give weight to later planning instrument, code, law or policy that has come into effect after the application was made but only before the day the decision stage for the application started.
- Pursuant to s45 (5) of the PAct an impact assessable development application must be carried out against the assessment benchmarks in a categorising instrument for the development, and may be carried out or having regard to other relevant matters.
- Under the PAct assessment must be carried out against or having regard to the statutory instrument as in effect when the development application was properly made (s45 (7)).
- The assessment manager can give weight it considers appropriate to a statutory instrument after the development application is properly made but before it is decided (s45 (8)).

The previous assessment and recommendation to the General Meeting on 21 March 2018 by officers was made pursuant to the decision rules in the SPA. This resulted in differences in some key assessment considerations as follows:

- The application was lodged (and properly made) on 30 March 2015 when the SEQRP 2009-2031 was in effect. Although this planning instrument has since been superseded by the current 2017 regional plan, which came into effect on 11 August 2017, the latter did not apply to this assessment.
- Section 317(1) of the SPA 2009 provides the assessment manager with the ability to give weight to new planning instruments, codes, laws and policies that come into effect after an application is made, this is however limited to applications that have not yet moved into decision stage when new instruments came into effect.
- The original application moved into decision stage on 16 December 2016 and as such the assessment could only be made against the SEQRP 2009-2031.
- Pursuant to PAct, weight can be afforded to new instruments that take effect prior to the development application being decided.
- The assessment under SPA – if conflict is identified with any statutory instrument (such as the RPS or the SEQRP 2009-2031) there must be sufficient grounds to justify the decision despite the conflict.
- Under PAct any relevant matter may be afforded weight in the assessment.

Consistency with Planning Framework

SEQ Regional Plan

At the time the development application was properly made the SEQRP 2009 identified the site within the Victoria Point Local Development Area (VPLDA). The SEQRP 2009 stated that '*Planning for a Development Area includes analysing the Development Area context, considering state agency policies and requirements, and examining infrastructure needs, staging, timing and funding*'. Whilst recognising local development areas are significant in the delivery of dwelling targets and employment for local government areas, the SEQRP 2009 continues to clarify that plans for development areas should be prepared and approved formally as a structure plan, where the Minister declares an area as a plan area or prepared informally and then used as a basis for submitting a proposed planning scheme amendment or an application for a preliminary approval.

The process of declaring master plan areas under the SPA has been repealed and it is noted that whilst the subject site is included within the urban footprint, the *SEQ Regional Plan 2017* no longer identifies the site as a local development area. Whilst this is the case the *SEQ Regional Plan 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
- 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 (Goal 1) identifies a number of elements and strategies. Of particular relevance is element three (3) (new communities) which requires new communities to 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.

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.

There remains a clear intent in the SEQRP 2017 to ensure the delivery of land use in new communities protects natural assets and promotes integrated and sequenced development. Whilst this does not preclude developer led structure plans, it is considered critical that in doing so the application ought not compromise the consideration of the appropriate planning outcomes, in the public interest, and implementation of the future planning strategy for the area.

The consistency with the SEQRP 2017 is therefore closely linked with the future planning strategy and intent for the area. As identified, Council has embarked upon the preparation of the draft South West Victoria Point Local Plan as an amendment to City Plan. The extent to which the proposed development achieves the identified planning outcomes and whether or not approval of this development application would be prejudicial to securing a new community that protects natural assets and promotes integrated and sequenced development is a key consideration. This, and consistency with the SEQRP 2017, are assessed under the relevant issue headings within this report.

State Policy & Regulations

The following section identifies the relevant state planning instruments relevant to the assessment of the development application in accordance with section 45 of the PAct and s31 of the Planning Regulation.

State Policy/Regulation	Applicability to Application
State Planning Policy April 2016	<p>Natural Hazards, Risk & Resilience Parts of the western extent, and south-east of the subject site are mapped as Potential Impact Buffer under the SPP. Land to the west and south is covered in sparse vegetation and the level of risk is considered to be tolerable, in accordance with the SPP. Future dwellings within these lots along the western boundary will be required to be certified as meeting MP2.1 Buildings in Bushfire-Prone Areas of the QDC.</p> <p>Biodiversity MSES – Regulated Vegetation (intersecting a watercourse) is located in the central north of the site, in the location of an existing dam. This will form part of a future environmental/drainage corridor and stormwater basin.</p> <p>Stormwater Quality The development complies with the requirements of the SPP in relation to stormwater.</p>
Koala Conservation SPRP	The site is within a Priority Koala Assessable Development Area under the SEQ Koala Conservation SPRP and is mapped as containing Medium Value Rehabilitation Areas. The application was assessable against Division 6 – Development in a Priority Assessable Area and a detailed assessment is provided below.
SPRP (Adopted Charges)	<p>The development is subject to infrastructure charges in accordance with the SPRP (adopted charges) and Council’s adopted infrastructure charges resolution. Details of the charges applicable have been provided under the Infrastructure Charges heading of this report.</p> <p>The application is also considered to require additional trunk infrastructure that has not been planned for in Council’s Priority Infrastructure Plan, being sewer upgrade works and upgrade to the Victoria Point Waste Water Treatment Plant. These additional requirements will be contained within an Infrastructure Agreement. More detail on the content and conditions within this is located under the Infrastructure heading in the SEQRP section of this report.</p>

SEQ Koala Conservation SPRP

Assessment against Division 6 – Development in a priority koala assessable development area:

Column 2 Assessment Criteria for assessable development	Officer comments
1. Site design does not result in the clearing of non-juvenile koala habitat trees in areas of bushland habitat.	The proposal does not involve the removal of non-juvenile koala habitat trees in areas of bushland habitat.
2. Site design must avoid clearing non-juvenile koala habitat trees in areas of high value rehabilitation habitat, and medium value rehabilitation habitat, with any unavoidable clearing minimised and significant residual impacts counterbalanced under the <i>Environmental Offsets Act 2014</i> .	<p>Since the application was lodged, the layout has been amended and the tree retention plan originally submitted with the application is no longer accurate. This should be updated should the layout change through the appeal process.</p> <p>It is noted that unavoidable non-juvenile koala habitat trees will have to occur. Conditions can be applied that require environmental offsets to counterbalance any significant residual impact after on site revegetation is undertaken.</p>

<p>3. Site design provides safe koala movement opportunities as appropriate to the development type and habitat connectivity values of the site determined through Schedule 2.</p>	<p>The proposed development provides for a 40m wide ecological corridor (which will become part of an 80m wide corridor in total). This will provide opportunities for safe koala movement through the site.</p> <p>In addition the north-south drainage line/corridor, whilst primarily for the conveyance and treatment of stormwater, will also provide a link to established habitat to the north of the subject site.</p>
<p>4. During construction phases:</p> <ul style="list-style-type: none"> a. measures are taken in construction practices to not increase the risk of death or injury to koalas; and b. native vegetation that is cleared and in an area intended to be retained for safe koala movement opportunities is progressively restored and rehabilitated. 	<p>Conditions of the permit could be added to require an Ecological Corridor management plan and a detailed road crossing treatment plan to be submitted for approval at operational works stage.</p>
<p>5. Native vegetation clearing is undertaken as sequential clearing and under the guidance of a koala spotter where the native vegetation is a non-juvenile koala habitat tree.</p>	<p>A condition for a fauna spotter could be included as part of the decision notice for Operational Works.</p>
<p>6. Landscaping activities provide food, shelter and movement opportunities for koalas consistent with the site design.</p>	<p>This could be provided as part of the Ecological Corridor management plan.</p>

The Koala Conservation SPRP has been replaced and a new koala assessment framework commenced on 7 February 2020 and included within *the Planning Regulation 2017*. Whilst included within the koala priority area there is no core koala habitat areas mapped on the premises. The below **Figure 3** provides an extract of the koala mapping.

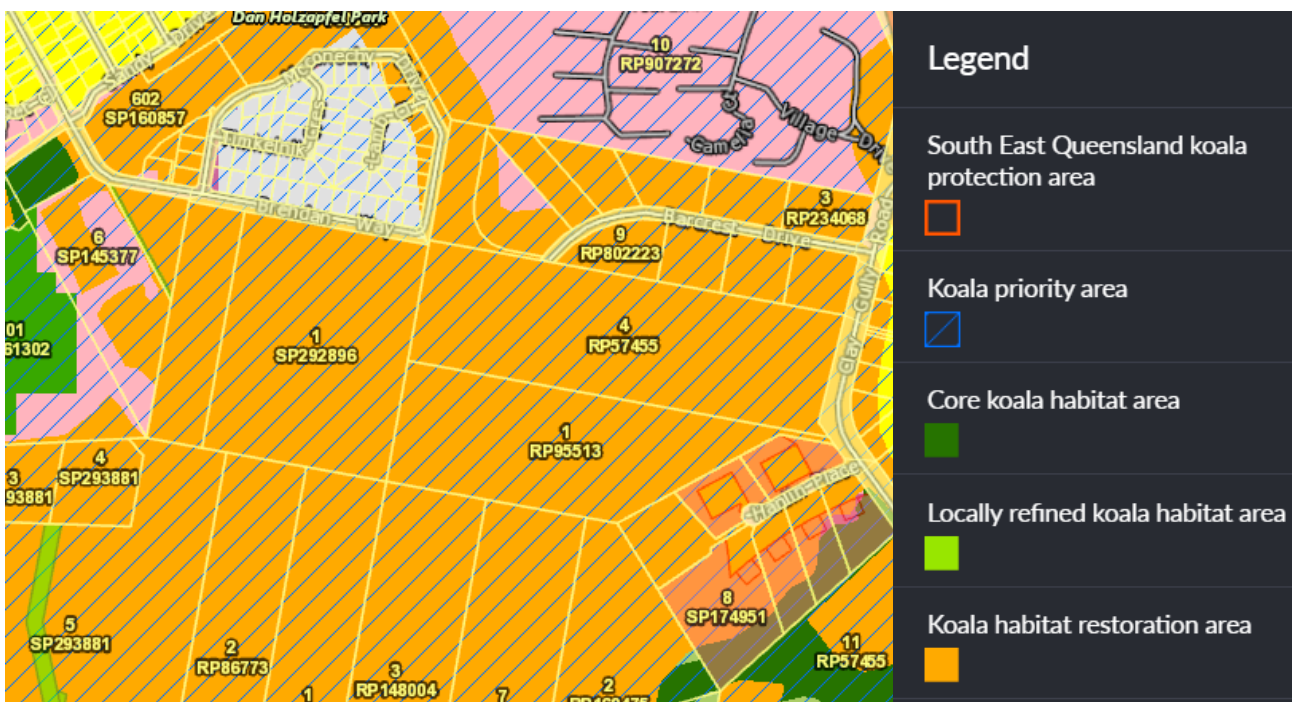


Figure 3 – Extract from koala mapping as of 7 February 2020 (Source Queensland Globe)

Pursuant to Part 10 of the Planning Regulation, as the premises forming part of the site is no longer mapped as containing a koala habitat area the development application is not prohibited development. The development application does not trigger assessment or referral pursuant to the Planning Regulation.

Redland Planning Scheme

In the RPS the subject site is included within the rural non-urban zone. Whilst the site is included within the rural non-urban zone, the site was identified as a local development area in the SEQRP 2009 and more recently included within the urban footprint in the *SEQRP 2017*. Further, in the City Plan the site is included within the emerging community zone. While located within the rural non-urban zone, given the urban intent for the site under the SEQRP 2009 and change in the intent of the zoning under City Plan, in accordance with s45 (8) of the PAct, the Court will need to determine the weight to be applied to City Plan as opposed to the rural non-urban zone in the RPS, being the instrument which has replaced the RPS and taken effect since lodgement of the application.

Whilst assessment must be undertaken against the planning instruments in effect at the time the development application was properly made, it is considered that it is appropriate for the Court to give significant weight to City Plan (v4) and the SEQRP 2017. These are the contemporary planning instruments in effect and embody the planning intent for the area, in the public interest.

Whilst this is the case, pursuant to s45 (7) of the PAct, the development application must be assessed against or having regard to the statutory instrument in effect when the development application was properly made. At the time the development application was properly made this consisted of the RPS (v7) (as an impact assessable development application the relevant assessment benchmark is identified as the entire planning scheme) and SEQRP 2009.

An assessment against the RPS and City Plan is undertaken in the following sections of this report.

Land use intent

The land is zoned as Rural Non-Urban under the RPS and outcomes of the zone seek to provide for land uses that rely on traditional and emerging rural activities and which encourage enjoyment of the rural environment e.g. recreational and tourism uses. Furthermore, overall outcomes of the Reconfiguration Code seeks to provide for lots in this zone that are of sufficient size to accommodate productive agricultural activities, with a minimum lot size of 20 hectares sought under Table 1 of the code. The proposed subdivision provides residential lots ranging in size from 400m² to 4553m², which is not in accordance with the overall outcomes sought for the zone.

Whilst this is the case, City Plan has taken effect and pursuant to the PAct the assessment manager can afford weight to an instrument that has taken effect prior to a decision being made. As identified above, the strategic framework sets the policy direction for City Plan 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
 - Infrastructure.

Specifically, section 3.3.1.4 of the strategic framework relates to development in new communities and 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; and
- 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.

Assessment of the outcomes under the relevant zone code in the City Plan, as they represent the specific zone intent for this area, should also be considered.

The overall outcomes (purpose) of the emerging community zone *is to 'guide the creation and functional, efficient and attractive communities in newly developing parts of the city, and to ensure interim development does not compromise the ability to establish these communities or detract from their quality'*. The purpose of the code will be achieved through the following overall outcomes:

- 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;'*

Considering the change in planning intent for the area contained within City Plan and SEQRP 2017 and the weight that can be afforded under the PAct, (subject to comments made below in respect of environmental matters and corridor location) the proposed development is considered generally consistent with the land use intent.

Draft South West Victoria Point Local Plan

As identified above, Council has resolved to endorse the draft South West Victoria Point Local Plan and it has been submitted to the State for first State interest review. To date, substantial technical studies have been undertaken to inform the draft structure plan. Once completed, the draft plan is expected to commence formal public notification providing opportunity for community comment and input on the draft structure plan.

As set out elsewhere in this report, s45 of the PAct 2016 provides legislative authority requiring that assessment must be undertaken against assessment benchmarks in a categorising instrument. However s45 (8) recognises that weight, which the assessment manager considers appropriate, can be given to a statutory instrument that has taken effect after the development application is properly made but before it is decided. As the draft South West Victoria Point Local Plan is unlikely to have taken effect, by the time the Court considers and decides the appeal, assessment against the local plan will not be undertaken pursuant to this section of the PAct.

Whilst recognising that the draft structure plan has not yet taken effect, unlike assessment under the SPA, assessment under the PAct allows regard to be given to any '*other relevant matter*'. In this context the draft South West Victoria Point Local Plan is considered to be a relevant matter, pursuant to section 45(5)(b) in the assessment of the development application and therefore regard may be had to it. It is for the Court as the assessment manager to determine the weight to be attributed to it.

Further, in the case of *Coty (England) Pty Ltd v Sydney City Council* (Coty Principle), there is common law authority which establishes that it is possible to give some weight to planning decisions that are in train but which do not yet have the force of law. This was reflected in the *Nerinda Pty Ltd v Redland City Council & Ors* case where it was stated that:

'In Coty this was on the basis of public interest considerations, it being considered important, in the public interest, that whilst a Council's planning scheme was under consideration, the court should avoid, as far as possible, giving a judgment or establishing a principle which would render more difficult the ultimate decision as to the form the scheme should take; and that it is also important, in the public interest, that during the drafting period, the court should, as far as possible, arrive at its judgment in consonance with town planning decisions which have been embodied in the local scheme in the course of its preparation. Applying that principle, it was held that an approval, as sought in that case, for a new, large and permanent industrial building, would "cut across to a substantial degree the considered conclusion of the ... council and its town planning committee", as expressed in the draft planning scheme, that the relevant land should be zoned residential.'

It is for the assessment manager to consider the amount of weight to be given under the Coty principle and in the case of *Lewiac Pty Ltd v Gold Coast City Council* [1996] it was concluded that too much weight could be afforded. It is for the Court to consider the weight attributable when considering the Coty principle and the draft local plan as a relevant matter, pursuant to the PAct.

Council has embarked on the preparation of a local plan for the area, in the public interest, that is to be incorporated as an amendment to the City Plan, and aspects of the current development application are at variance with that structure planning that is in preparation.

Figure 7.2.1.2.1 Land use zone plan in the draft local plan structure plan (extract provided in **Figure 4**) identifies land on the subject site within the conservation and low density residential zone. An extract of the draft structure plan and the proponent’s structure plan are shown below in **Figures 4** and **5** below:



Figure 4 – Draft South West Victoria Point Structure Plan

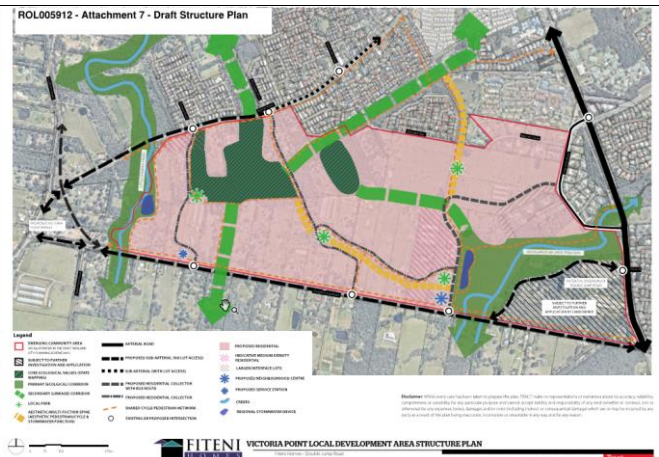


Figure 5 – Extract from Applicant’s Proposed Structure Plan

The key differences relevant to the development application, between the draft structure plan and the proponent’s structure plan include the east-west conservation zone, straddling the southern boundary of the development application site. In the draft South West Victoria Point Local Plan the zoned land for conservation purposes is provided equally within two different development areas.

Summary

Some inconsistency has been identified with the overall outcomes of the emerging community zone code of City Plan, in that it requires the structure planning of the area within the zone, in advance of any reconfiguration or development for urban purpose, this should not itself be considered decisive.

The application should not be refused solely because Council has not yet implemented its own planning.

In this regard, neither the *SEQRP 2017* nor City Plan preclude a proponent led structure planning process, rather (amongst other matters) they seek to achieve the following key planning outcomes:

- that land is used efficiently;
- development does not compromise or constrain the potential for well-designed future urban communities;
- facilitates the retention or enhancement of significant waterway and habitat corridors and other areas of environmental significance;
- promotes integrated and sequenced development and infrastructure provision (coordination);
- land use and site planning matters are addressed; and
- traffic and the road network is satisfactory.

The key consideration is whether the proposal is compliant or not with these planning outcomes from first principles, when considered against the relevant planning framework and having regard to any other relevant matters, such as the emerging draft South West Victoria Point Local Plan.

Applying the 'Coty principle', in the public interest it is appropriate for Council to consider whether the development application will be prejudicial to securing these planning outcomes as part of a coordinated and planned structure planning process led by Council.

The following assessment in this report considers those identified matters under the corresponding issue section headings.

Environmental values

Figure 6 below is an extract from the ROL Plan (Place Design Group) which identifies a 30m wide connected corridor proposed as part of the development.



Figure 6 – Extract of ROL Plan (Place Design Group)

The site is subject to the Habitat protection overlay and mapped as enhancement area, with an enhancement corridor running along the southern part of the site, and traversing the boundary of the site (**Attachment 8**). The enhancement corridor is intended to support a natural area network by enhancing/creating habitat linkages between areas mapped as bushland habitat to the east and west of the site.

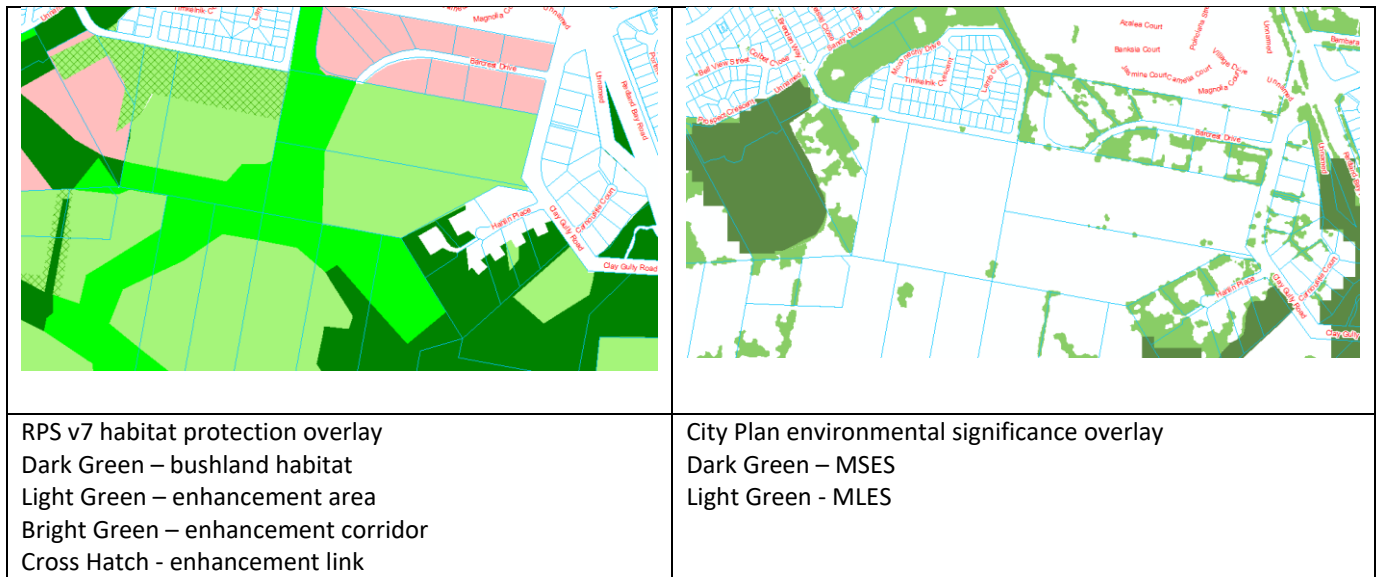
Specific outcome S2.1(5) of the Habitat protection overlay code (HPOC) in the RPS seeks to locate development outside of the mapped corridor areas however, where this is not achievable, the corridor is to be expanded to no less than 100m in width.

The proposed subdivision however notes a 30m wide corridor running along the southern boundary of the site, which is traversed by a 25m wide road. The ultimate intention being that a corridor with a total of width 60m would be provided in the future; 30m being on the subject site itself and 30m being provided on land to the south when this develops.

Throughout the assessment of the application, officers advised the applicant that insufficient information/justification had been provided to demonstrate that a corridor with a reduced width of 60m rather than 100m, would achieve the overall outcomes of the code. In the absence of adequate information, Council sought independent advice from an ecological consultant to determine the adequacy of the proposed habitat corridors for the proposed application. It was advised that while there are valid grounds to support a habitat corridor of 100m in width, a well-designed habitat corridor of 80m in width with a central core habitat of 30m in width would ultimately provide the standard of ecological corridor envisaged by the overall outcomes of the HPOC. Recommendations in respect to the proposed treatment of the road crossing the eastern end of the corridor were also provided by the consultant.

The applicant, at the time of the previous report, subsequently agreed to increase the width of the proposed ecological corridor on the development site to 40m; with the remaining 40m to be provided on the adjoining lots to the south in the future. The previous recommendation of approval from officers included the imposition of a condition requiring a 40m wide corridor to be secured via planning condition. A further condition required the applicant to provide an ecological corridor management plan and road crossing treatment plan for approval at operational works stage, to ensure that the design of the corridor and road crossing achieve the desired end outcomes.

This a key difference in the assessment of the development application, previously undertaken and now in the context of a deemed refusal appeal. The habitat protection overlay in the RPS has been replaced by the environmental significance overlay in the City Plan, which identifies different categories and areas. **Figure 7** below provides an extract of the habitat protection overlay in the RPS and environmental significance overlay in City Plan. For comparison the environmental significance overlay in City Plan is based on the SPP mapping for Matters of State Environmental Significance (MSES), at a particular point in time and includes matters of Local Environmental Significance (MLES).



Eprapah Creek Corridor to Giles Road Conservation Area – Enhancement Corridor in Known Development Area



Figure 8 – Extract from Wildlife connections Plan 2018 - 2028

The RPS required the enhancement corridor connectivity and although not mapped within City Plan the establishment of viable and resilient wildlife corridors is identified as one of the strategic outcomes in the strategic framework. Achieving the delivery of viable corridors was a key consideration for officers in seeking to secure an 80m wide corridor (40m on each side of the development boundary) to the south west of the development site in their original recommendation.

The purpose of the conservation zone in the draft South West Victoria local Plan identifies (amongst others):

- The landscape qualities, environmental values (matters of state and local environmental significance) and ecological functions of land in this zone are protected and enhanced;
- Ecological corridors are created to provide for ecological connectivity between areas of environmental value in this zone and to broader wildlife habitat networks; and
- Development restores degraded and cleared areas in the zone increasing the extent and quality of areas of state and local environmental significance.

The southern boundary of the site is largely devoid of vegetation (on both sides of the property boundary) however, as identified, it does form an important strategic role in achieving connectivity between habitat areas across the structure plan area. The creation of a resilient and viable enhancement corridor in accordance with City Plan (and considering the ecological advice originally received) is best achieved through the provision of a 40m width on either side of the southern site boundary. In order to achieve this the 40m wide corridor on the southern boundary would need to be extended and would result in the loss of 17 lots (lot 142 – 58) and the esplanade road. It is noted that this may also require some consequential re-design of the development.

The previous report from officers recommended a condition, however given the substantial re-design that this would now entail it is not now considered to be a reasonable imposition.

The draft South West Victoria Point Local Plan identifies the conservation zone straddling the southern boundary of the development site and purposefully seeks to secure an approach which would enable the creation of a viable and resilient corridor. Sharing the burden of the corridor over different land holdings and ownership increases the viability and deliverability of the corridor in this location. The draft South West Victoria Point Local Plan represents the latest embodiment of planning policy, at a 'finer grain', undertaken in the public interest and due to practical considerations around delivery and viability reconsiders the location of the enhancement corridor originally shown in the RPS.

The approach in the draft local plan is generally consistent with the intent of previous planning schemes to maintain and create connectivity between areas of ecological significance and, as such, is a relevant matter to be considered in the assessment of the development application.

The proposed reconfiguration, by not including the extended corridor to the south, cuts across this draft plan and the ability of Council to secure viable and resilient connectivity in the future. As such, when considered against the relevant planning instruments and assessment provisions within the PAct, the proposed development would be contrary to the coordinated structure planning approach to plan making and the growth of new urban areas within Redland City.

Infrastructure delivery

Sewer

The applicant's civil engineering report states that a new 300mm diameter gravity sewerage main is to connect to the existing public sewer network which will feed to the Victoria Point Sewer Treatment Plant (STP).

At the time of the previous assessment report an IA was agreed that required an additional payment of [REDACTED] for wastewater infrastructure for the future upgrade of the Victoria Point Waste Water Treatment Plant.

The Victoria Point emerging community zone area is located outside of the Priority Infrastructure Area of the Local Government Infrastructure Plan (LGIP). When a new community is developed outside of the Priority Infrastructure Area (PIA) the desired environmental outcomes of the RPS v7 and the strategic framework of the City Plan requires that development does not proceed until all local and trunk infrastructure requirements (both state and local) can be met by development proponents, and an agreed funding mechanism is established.

Overall outcomes of the infrastructure works code within the RPS v7 and the City Plan are also virtually identical in that they seek to ensure that infrastructure is provided in a cost-effective and efficient manner, is designed to minimise whole-of-lifecycle costs, is integrated with the existing networks and does not result in adverse impacts on environmental or landscape values.

The conclusions drawn by the applicant's sewer analysis report, which state that the existing network has capacity to service the proposed development, are noted. However, work that has been undertaken by Council in the drafting of the South West Victoria Point Local Plan recognises that development within the area is required to contribute to the upgrades of the Victoria Point STP, including sewer mains and pump stations, as the treatment plant does not have sufficient capacity to cater for the expected demand.

As upgrades to the existing STP plant at Victoria Point are required, prior to development within the area proceeding, it is considered that the application has not demonstrated that the required local and trunk infrastructure requirements can be met through an agreed funding mechanism.

The proposal is considered contrary to the RPS, City Plan and City Plan Major Amendment Package (05/19) draft South West Victoria Point Local Plan.

Traffic and road network

The Priority Infrastructure Plan (PIP) includes Double Jump Road-Kingfisher Road route as a four (4) lane route along its entire length from Cleveland Redland Bay Road to Boundary Road. This provision was amended in the Local Government Infrastructure Plan (LGIP) as follows:

- TR-L-108 – Double Jump Road: Seal widening from Cleveland-Redland Bay Road to Heinemann Road;
- TR-L-106 – Bunker Road (Sub Arterial Road): Seal widening from Brookvale Drive to Realignment;
- TR-P-20 – Intersection – Heinemann Road (Sub arterial road): intersection upgrade at Double Jump Road (2017-2021); and
- TR-L-115 – Double Jump Rd: Realignment Heinemann to Kingfisher, new intersection Heinemann, roundabout Bunker.

The LGIP identifies minor upgrade of Double Jump Road maintaining it as a two (2) lane road.

Whilst not directly providing access to Double Jump or Bunker Road the development will result in increased traffic in the structure plan area. The proposed development does not make provision for upgrades to roads surrounding the structure plan area and whilst it is concluded that the suggested upgrades to the network are sufficient to meet the traffic generated by the development, it is considered that the proposed solutions do not form an integrated approach to the traffic network and future planning of the road network as part of the South West Victoria Point Local Plan area in general.

Approval of the development would be prejudicial to the delivery of the intent for the area and road network.

Prematurity

Pursuant to s45 of the PAct, assessment may be carried out or have regard to any other relevant matter. As has been identified, the South West Victoria Point Local Plan is considered a relevant matter. Significant investigation and background technical studies have been undertaken in drafting the proposed planning scheme amendment to incorporate the local plan into City Plan. The draft South West Victoria Point Local Plan has also reached an important stage with its recent adoption by Council for the purposes of state interest review. Applying the '*Coty principle*' and whether the development application will be prejudicial to securing these planning outcomes in the public interest, as part of a coordinated and planned structure planning process led by Council, is therefore a further consideration.

Structure Planning

Potential inconsistency between the proposed development application and the emerging local plan in itself is not considered a reason for refusal. Rather, as set out above, the assessment of the proposal and planning outcomes from first principles, against the relevant assessment benchmarks contained within the relevant statutory instruments (considering instruments that assessment must be undertaken and those instruments to which regard may be given) needs to be considered and assessed. The assessment in this report concludes that the proposal is not compliant with the identified planning outcomes in the relevant planning instruments, from first principles.

Approval of the development application would 'cut across', to a substantial degree, the strategic intent and ability to deliver an integrated and sequenced community within the South West Victoria Point Local Plan area. As demonstrated, these planning outcomes are embedded in the relevant local categorising instruments and draft local plan. Approval of the development application which is inconsistent with these planning outcomes, in advance of the local plan and City Plan amendment taking effect, would be premature and compromise the implementation of the structure plan for the coordinated and efficient development of the locality.

In this assessment context, significant weight should be afforded to the draft South West Victoria Point Local Plan.

The development has not demonstrated that the land will be used efficiently – to facilitate the retention and enhancement of significant habitat corridors (including encouragement of fauna movement) and other areas of environmental significance; or provide the necessary infrastructure requirements to service the development – by way of an agreed funding mechanism.

It is noted that an IA has been executed in connection with any future development approval, however this does not consider the development as part of the wider local plan area and consideration of infrastructure impacts, costs and funding mechanisms.

The proposal is considered contrary to the relevant provisions of the planning scheme and other relevant matters being the draft South West Victoria Point Local Plan.

SEQRP 2017 – Part A: Goals, Elements and Strategies

The strategies of the *SEQRP 2017* (pursuant to goal 1: Grow and element 3: New communities) identify a strategy to ensure the planning and delivery of land use and infrastructure for new communities, are integrated and sequenced, and deliver complete communities in a timely manner. It is recognised that this must be balanced with Chapter 3, Part C: sub-regional directions and in circumstances of inconsistency between the strategies and sub-regional directions, the sub-regional directions prevail.

In this regard no inconsistency has been identified between the strategies and sub-regional directions in *SEQRP 2017*. The population growth and identified dwellings target in the sub-regional directions is noted and Council has identified the subject land within the emerging community zone in City Plan, in order to provide sufficient land to meet with the additional dwelling requirement (2016-2041).

Further, in order to plan for the delivery of the new community in an integrated, sequenced and complete community in a timely manner, Council has followed a logical process since the earlier *SEQRP 2009*, by implementing City Plan (changing the zoning to emerging community) and preparing a draft structure plan for the area.

The application compromises important aspects of this current planning. Conflict has been identified with the planning outcomes identified from first principles. The extent to which this ‘cuts across’ the local plan/structure plan process is considered prejudicial to the finer grain local planning for the structure plan area. In such circumstances, and in the absence of any inconsistency with the sub-regional directions, approval of the development application is considered to be premature and prejudicial to achieving the outcomes and strategies for new communities identified within chapter 3, Part A goals, elements and strategies identified in the *SEQ Regional Plan 2017*.

Submissions

There were 337 properly made submissions received during the notification period. A further 16 submissions were received that were not properly made but accepted under s305(3) of the Sustainable Planning Act 2009 (applying at the time). The matters raised within these submissions are outlined in the original report (refer to **Attachment 4**). The following table sets out the response to the matters raised relevant to the issued raised in this report only.

1.	<p>Issue – Biodiversity</p> <ul style="list-style-type: none"> - The development doesn't meet overall outcomes of Habitat Protection Overlay code. - The proposed fauna movement corridor proposed is far too small in width and the RPS requires a 100m corridor. - Mature trees to be cleared.
	<p>Officer’s Comment</p> <ul style="list-style-type: none"> - Refer to the Issues section of report for discussion on the ecological corridor and existing trees.
2.	<p>Issue – Principal of use</p> <ul style="list-style-type: none"> - Proposal is premature and piecemeal, compromises the city to create functional, efficient and attractive community. - Contrary to preferred settlement pattern framework, identifies the site for rural and habitat corridor - Contrary to overall outcomes for zone.
	<p>Officer’s Comment</p> <ul style="list-style-type: none"> - See Issues section of report for discussion on land use and conflict with the planning scheme/SEQRP.

Deemed Approval

The development application is impact assessable and therefore deemed approval is not applicable.

STRATEGIC IMPLICATIONS

Legislative Requirements

The assessment presented in this report is in accordance with the *Planning Act 2016*. **Risk Management**

Standard development application risks apply.

Financial

There is potential that in a deemed refusal appeal the appellant may apply for an award of costs. Due to the complexity and extent of the issues that will need to be resolved through the appeal process, the cost of taking the matter to a hearing is likely to be [REDACTED] exclusive of any adverse costs orders in the event the Council is unsuccessful.

People

There are no implications for staff.

Environmental

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

Social

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

Human Rights

In accordance with section 58 of the *Human Rights Act 2019*, consideration has been given to the relevant human rights in particular c.25 Privacy and Reputation, when drafting this report.

Alignment with Council’s Policy and Plans

The assessment and officer’s recommendation align with Council’s policies and plans as described within the “Issues” section of this report.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Director - Reynolds Planning Pty Ltd	March - April 2020	Preliminary advice has been incorporated into the report.
Managing Principal – Terrestria Ecological Management	March - April 2020	Preliminary advice has been incorporated into the report.

OPTIONS**Option One**

That Council resolves as follows:

1. To oppose the development application, for the reasons generally in accordance with those identified in Attachment 9.
2. To authorise the Chief Executive Officer to finalise the reasons for refusal after consultation with the relevant experts and Counsel advice.
3. To authorise Council solicitors to notify the parties that it opposes the development application, for the reasons generally in accordance with those identified in Attachment 9.
4. 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. To oppose the development application, subject to additional or amended reasons.
2. To instruct Council solicitors to notify the parties that it opposes the development application, for the reasons identified in point 1.
3. 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 Three

That Council resolves as follows:

1. To support the development application for reconfiguration of a lot and delegate authority to the Chief Executive Officer to draft conditions.
2. To instruct Council solicitors to notify the parties that it supports the development application for reconfiguration of a lot, subject to conditions.
3. 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. **To oppose the development application, for the reasons generally in accordance with those identified in Attachment 9.**
2. **To authorise the Chief Executive Officer to finalise the reasons for refusal after consultation with the relevant experts and Counsel advice.**
3. **To authorise Council solicitors to notify the parties that it opposes the development application, for the reasons generally in accordance with those identified in Attachment 9.**
4. **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.**

ROL005912 – Attachment 2 – Site aerial photo





Department of Infrastructure,
Local Government and Planning

Our reference: SDA-0415-019880
Your reference: ROL005912

22 November 2017

Chief Executive Officer
Redland City Council
PO Box 21
CLEVELAND QLD 4163

Via email: DAmailbox@redland.qld.gov.au

Dear Sir/Madam

Amended concurrence agency response – with conditions

21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165 – Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635
(Related to section 290(1)(b) of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning (the department) issued a concurrence agency response under section 285 of the *Sustainable Planning Act 2009* (the Act) on 15 December 2016. On 13 November 2017, the department received representations from the applicant requesting that the department amend its concurrence agency response under section 290(1)(b)(i) of the Act.

The department has considered the written representations and agrees to issue the following amended concurrence agency response.

Applicant details

Applicant name: Ausbuild Pty Ltd
Applicant contact details: c/- Place Design Group Ptd Ltd
PO Box 419
FORTITUDE VALLEY QLD 4006

Site details

Street address: 21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165
Lot on plan: Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635

Local government area: Redland City Council

Application details

Proposed development: Development Permit for a Reconfiguration of a Lot by Standard Format Plan (three lots into 263 lots)

Referral triggers

The development application was referred to the department under the following provisions of the Sustainable Planning Regulation 2009:

Referral triggers: Schedule 7, Table 2, Item 39—Regional Plan
Schedule 7, Table 3, Item 2—State-transport Infrastructure

Previous Concurrence Agency Response details

Date of original response: 15 December 2016

Original response details: Approved subject to conditions

Date of previous amended response: 13 August 2017

Previous amended response details: Amended response issued (revised plan references)

Nature of the changes

The nature of the change agreed to in the current request are:

- Amendment to the Reconfiguration of a Lot Plan

An amended concurrence agency response for this request is attached. The applicant has provided written agreement to this amended concurrence agency response, as attached.

For further information, please contact Alice Davis, Acting Principal Planning Officer on (07) 5644 3223 or via email GCSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Adam Norris

A/Manager, Planning and Development Services (SEQ South)

cc: Ausbuild Pty Ltd C/- Place Design Group Pty Ltd, catherine.a@placedesigngroup.com
enc: Attachment 1—Amended conditions to be imposed
Attachment 2—Reasons for decision to impose amended conditions
Attachment 3—Amended further advice
Attachment 4—Approved Plans and Specifications
Attachment 5—Applicant written agreement to amended concurrence agency response

Our reference: SDA-0415-019880
 Your reference: ROL005912

Amended concurrence agency response

(Given under section 290 of the *Sustainable Planning Act 2009*)

Site details

Street address: 21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165
 Lot on plan: Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635
 Local government area: Redland City Council

Application details

Proposed development: Development Permit for a Reconfiguration of a Lot by Standard Format Plan (three lots into 270 lots)

Referral triggers

The development application was referred to the department under the following provisions of the Sustainable Planning Regulation 2009:

Referral triggers: Schedule 7, Table 2, Item 39—Regional Plan
 Schedule 7, Table 3, Item 2—State-transport Infrastructure

Amended Conditions

Under section 287(1)(a) of the Act, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the Act, the department must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Further advice

Under section 287(6) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the following plans and specifications set out below and in Attachment 4 must be attached to any development approval.

Drawing/Report Title	Prepared by	Date	Reference no.	Version/Issue
Aspect of development: Reconfiguring a Lot				
Intersection upgrade	Lambert & Rehbein	15 December 2015	B14112-SK-001	-
ROL Plan (as amended in red by SARA on 22 November 2017)	Place Design Group	6-11-2017	ASB32-SK01	K

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 1 — Amended conditions to be imposed

No.	Conditions of Development Approval	Condition Timing
Development Permit - Reconfiguring a Lot (3 lots into 270 lots)		
Schedule 7, Table 3, Item 2—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1	<p>(a) Road works comprising:</p> <ul style="list-style-type: none"> • a 'Keep Clear' zone pavement marking in Clay Gully Road opposite the entry to the existing Retirement Facility near Cleveland-Redland Bay Road; and • a (high entry angle) left turn slip lane from Clay Gully Road approach into Cleveland-Redland Bay Road (north); <p>must be provided generally in accordance with Intersection Upgrade prepared by Lambert & Rehbein dated 15 December 2015, reference B14112-SK-001 as amended in blue by the SARA on 22 November 2017 to widen the proposed left turn lane to a minimum of 4.6 metres width.</p> <p>(b) The road works must be designed and constructed in accordance with the current version of the Department of Transport and Main Roads Road Planning and Design Manual.</p>	Prior to submitting the Plan of Survey to the local government for approval.
2	The ROL Plan prepared by Place Design Group Pty Ltd dated 6-11-2017, reference ASB32-SK01 and revision K, as amended in red to illustrate the future potential bus route by SARA on 22 November 2017 must be designed and constructed by the applicant to be in accordance with the Schedule – Code for IDAS, Part 2 – Development Standards of the <i>Transport Planning and Coordination Regulation 2005</i> to accommodate a single unit rigid bus of 12.5m in length.	Prior to submitting the Plan of Survey to the local government for approval for the relevant stage.
3	<p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • ROL Plan prepared by Place Design Group Pty Ltd dated 6-11-2017, reference ASB32-SK01 and revision K, as amended in red to illustrate the future potential bus route by SARA on 22 November 2017. 	Prior to submitting the final Plan of Survey to the local government for approval and to be maintained at all times.
Development Permit - Reconfiguring a Lot (3 lots into 270 lots)		

<p>Schedule 7, Table 2, Item 39—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i>, the chief executive administering the Act nominates the Director-General of the Department of Infrastructure, Local Government and Planning to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:</p>		
4	<p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • ROL Plan prepared by Place Design Group Pty Ltd dated 6-11-2017, reference ASB32-SK01 and revision K, as amended in red to illustrate the future potential bus route by SARA on 22 November 2017. 	<p>Prior to submitting the final Plan of Survey to the local government for approval and to be maintained at all times.</p>

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 2 — Reasons for decision to impose amended conditions

The reasons for this decision are:

- To ensure the road works on, or associated with, the state-controlled road network are undertaken in accordance with applicable standards.
- To provide, as far as practicable, public passenger transport infrastructure to support public passenger services.
- To ensure the development is carried out generally in accordance with the plans of development submitted with the application

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 3 — Amended further advice

General advice	
Ref.	Public Passenger Transport
1.	<p>Potential future bus route</p> <p>The development is reliant on access to the external road network via Clay Gully Road and Cleveland Redland bay Road, which will be a critical link as part of a potential future bus route through the development. Clay Gully Road and proposed left turning lane into Cleveland Redland Bay Road must be designed and constructed in accordance with the Schedule – Code for IDAS, Part 2 – Development Standards of the <i>Transport Planning and Coordination Regulation 2005</i> to accommodate a single unit rigid bus of 12.5m in length.</p> <p>In particular, the proposed left turning lane from Clay Gully Road into Cleveland Redland bay Road needs to demonstrate that a bus can effectively negotiate the left turn and then enter the indented bus bay. Please ensure that a 12.5m bus as a design vehicle can stop parallel to the edge of the bus bay.</p> <p>Traffic calming devices should not be incorporated into the design and construction of potential future bus routes in accordance with Chapter 2 - Planning and Design, Section 2.3.2 Bus Route Infrastructure (page 6) of the Department of Transport and Main Roads <i>Public Transport Infrastructure Manual, 2015</i>.</p> <p>The Department of Transport and Main Roads' TransLink <i>Public Transport Infrastructure Manual 2015</i> is available at: http://translink.com.au/about-translink/reports-and-publications</p>
2.	<p>Existing bus stop</p> <p>The development includes upgrade works to the Clay Gully Road and Cleveland-Redland Bay Road intersection, which may impact on the existing bus stop 'Redland Bay Rd at Victoria Point High School, Victoria Point', TransLink Number: 400028, Hastus ID: 311167. This bus stop must be able to function and pedestrian access to this facility must be maintained during the works.</p> <p>Accordingly, if any temporary bus stop and pedestrian access arrangements are required, the applicant must reach agreement on suitable arrangements with the Department of Transport and Main Roads' TransLink Division (07 3851 8700 or at bus_stops@translink.com.au) prior to any construction or works commencing.</p>
3.	<p>Urban Bus Stops on a State-controlled road</p> <p>In accordance with Section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> (TIA) and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled roads) Regulation 2006</i>, you must have written approval to carry out ancillary works and encroachments on a state-controlled road. These development conditions do not constitute such an approval. You will need to contact the Department of Transport and Main Roads on 3066 5834 to make an application for a Road Corridor Permit under section 50(2) of the TIA to carry out ancillary works and encroachments. Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters, vegetation clearing, landscaping and planting.</p>

	The Department of Transport and Main Roads' technical standards and publications can be accessed at http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx .
Further development permits, compliance permits or compliance certificates	
Ref.	State-controlled roads
4.	Road works approval: Under section 33 of the <i>Transport Infrastructure Act 1994</i> , written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Department of Transport and Main Roads on metropolitan.IDAS@tmr.qld.gov.au to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. 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 of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.
5.	Compliance: Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the Department of Transport and Main Roads has been nominated by the Chief Executive of the Department of Infrastructure Local Government and Planning as the entity responsible for the administration and enforcement of concurrence agency conditions within TMR's area of interest (e.g development impacting on State-controlled roads). The Department of Infrastructure Local Government and Planning wishes to advise Redland City Council that any matter regarding compliance with the concurrence agency conditions (including compliance with certain conditions before the Plan of Survey has been submitted to Council for approval), that they must be addressed to the District Director (Metropolitan District) in the Department of Transport and Main Roads. If Council has any questions or wish to further discuss this matter, please contact the Metropolitan office at the Department of Transport and Main Roads on Metropolitan.IDAS@tmr.qld.gov.au .
South East Queensland Regional Plan 2009-2031 (SEQ Regional Plan)	
6.	The SEQ Regional Plan sets out a clear policy direction under Desired Regional Outcome 8.1 Compact development that any new residential development in Development Areas must achieve a minimum dwelling yield of 15 dwellings per hectare net. Please note that the local and regional development areas under the former SEQ Regional Plan are no longer considered development areas for the purposes of the Planning Regulation 2017. As such, it will be the responsibility of the local government to ensure that land is developed efficiently and at a density that will enable the dwelling targets under the <i>South East Queensland Regional Plan 2017</i> (ShapingSEQ) to be met.

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 4 — Approved plans and specifications

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PROJECT
CLAY GULLY ROAD
CLIENT
AUSBUILD

KEY PLAN / NOTES

NOT FOR CONSTRUCTION

ISSUE	CODE	ISSUE DESCRIPTION	BY	CHK	DATE
A	PRE	PRELIMINARY ROL PLAN	CA	LM	25-03-2015
B	PRE	PRELIMINARY ROL PLAN	CA	LM	29-07-2015
C	PRE	PRELIMINARY ROL PLAN	CA	LM	11-08-2015
D	PRE	PRELIMINARY ROL PLAN	CA	LM	12-12-2015
E	PRE	PRELIMINARY ROL PLAN	JB	CA	21-01-2016
F	PRE	PRELIMINARY ROL PLAN	JB	CA	01-03-2016
G	PRE	PRELIMINARY ROL PLAN	JB	CA	02-03-2016
H	PRE	PRELIMINARY ROL PLAN	JB	CA	07-03-2016
I	PRE	PRELIMINARY ROL PLAN	EM	CA	24-03-2016
J	PRE	PRELIMINARY ROL PLAN	EM	CA	26-09-2017
K	PRE	PRELIMINARY ROL PLAN	JW	CA	06-11-2017

DRAWING TITLE
ROL PLAN
DESIGN : CA
DOCUMENT : CA
PROJECT : ASB32
SCALE 1:1500 @ A1 1:3000 @ A3
SHEET NUMBER ASB32-SK01
REVISION K



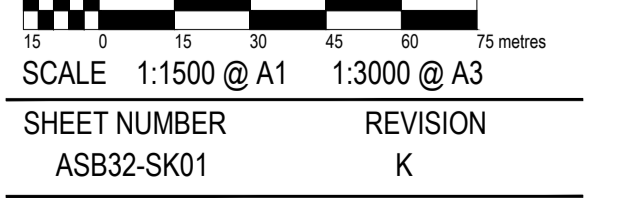
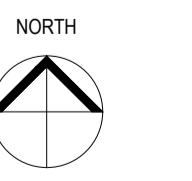
YIELD AND MIX

	12.5m	14m	16m	14m	16m	20-25m	Vendor Lots	TOTAL			
Average width	12.5m	14m	16m	14m	16m	20-25m	Vendor Lots				
Average depth	29-31m	29-31m	29-31m	28m	28m	31-42m	2949sqm				
Average size	401sqm	435sqm	505sqm	411sqm	459sqm	725sqm					
STAGE 1	1	3%	7	18%	3	8%	11	28%	4	10%	40
STAGE 2	7	15%	21	0%	9	19%	6	13%	2	4%	47
STAGE 3	2	6%	4	12%	4	12%	4	12%	10	29%	34
STAGE 4	5	14%	11	31%	17	49%	0	0%	1	3%	35
STAGE 5	6	17%	10	28%	5	14%	8	22%	6	17%	36
STAGE 6	0	0%	16	47%	10	29%	7	21%	1	3%	34
STAGE 7	10	59%	4	24%	2	12%	0	0%	0	0%	17
STAGE 8	7	26%	3	11%	4	15%	7	26%	5	19%	27
YIELD	38	14%	76	28%	54	20%	43	16%	31	11%	270

Amended in red by SARA on
22 November 2017

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

SARA ref: SDA-0415-019880
Date: 22 November 2017





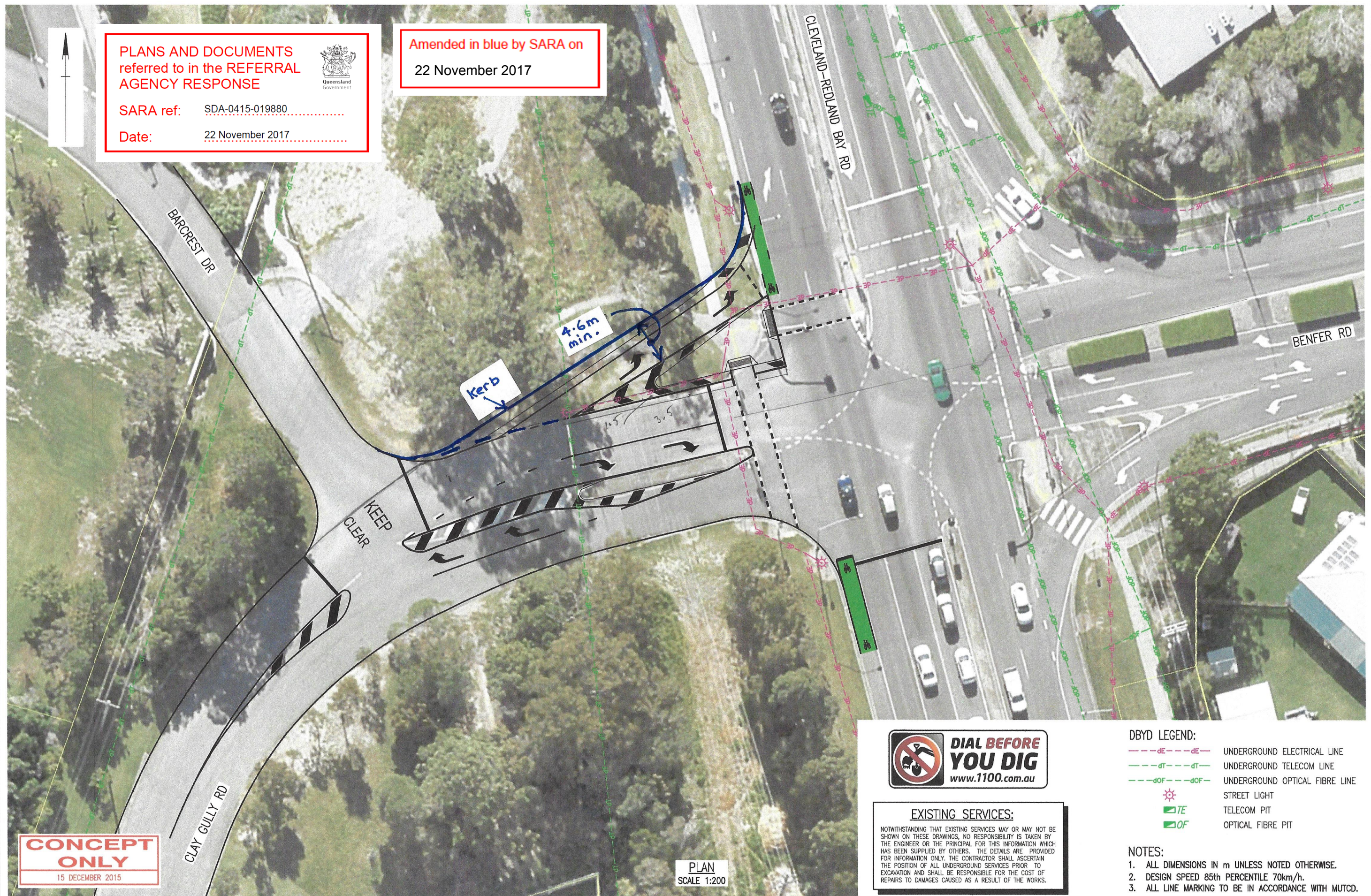
PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: SDA-0415-019880

Date: 22 November 2017

Amended in blue by SARA on 22 November 2017



CONCEPT ONLY
15 DECEMBER 2015

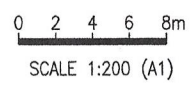
PLAN
SCALE 1:200



EXISTING SERVICES:
NOTWITHSTANDING THAT EXISTING SERVICES MAY OR MAY NOT BE SHOWN ON THESE DRAWINGS, NO RESPONSIBILITY IS TAKEN BY THE ENGINEER OR THE PRINCIPAL FOR THIS INFORMATION WHICH HAS BEEN SUPPLIED BY OTHERS. THE DETAILS ARE PROVIDED FOR INFORMATION ONLY. THE CONTRACTOR SHALL ASCERTAIN THE POSITION OF ALL UNDERGROUND SERVICES PRIOR TO EXCAVATION AND SHALL BE RESPONSIBLE FOR THE COST OF REPAIRS TO DAMAGES CAUSED AS A RESULT OF THE WORKS.

- DBYD LEGEND:**
- dE---dE- UNDERGROUND ELECTRICAL LINE
 - dT---dT- UNDERGROUND TELECOM LINE
 - dOF---dOF- UNDERGROUND OPTICAL FIBRE LINE
 - STREET LIGHT
 - TELECOM PIT
 - OPTICAL FIBRE PIT

- NOTES:**
1. ALL DIMENSIONS IN m UNLESS NOTED OTHERWISE.
 2. DESIGN SPEED 85th PERCENTILE 70km/h.
 3. ALL LINE MARKING TO BE IN ACCORDANCE WITH MUTCD.



Project:
CLAY GULLY ROAD
RESIDENTIAL

Client:
AUSBUILD
Title:
INTERSECTION UPGRADE
CLAY GULLY RD AND BARCREST DR

LAMBERT & REHBEIN
ENGINEERS • MANAGERS • SCIENTISTS
CBD HOUSE
LEVEL 3, 120 WICKHAM STREET
FORTITUDE VALLEY QLD 4006
P.O. BOX 10 FORTITUDE VALLEY QLD 4006
TELEPHONE (07) 3250 9000
FACSIMILE (07) 3250 9001
EMAIL mail@l-r.net.au
A.C.N. 010 451 992

Figure No:
B14:112-SK-001
Scale: AS SHOWN
File Ref: SEE BELOW

Our reference: SDA-0415-019880
Your reference: ROL005912

Attachment 5 — Applicant written agreement to amended concurrence agency response

Your reference: SDA-0415-019880

Attn: Alice Davis, Acting Principal Planning Officer (SEQ South)

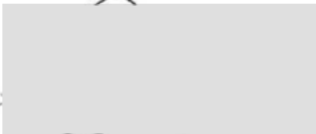
Written agreement for the Department of Infrastructure, Local Government and Planning to amend its concurrence agency response

(Given under section 290(1)(b)(i) of the *Sustainable Planning Act 2009*)

Street address: 21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165
Real property description: Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635
Assessment manager reference: ROL005912
Local government area: Redland City Council

As the applicant of the above development application, I hereby agree to the amended concurrence agency response provided to me in the notice dated 21 November 2017:

Name of applicant: Ausbuild Pty Ltd c/- Place Design Group Pty Ltd

Signature of applicant:  (PLACE DESIGN GROUP)
Date: 22.11.2017.



Wed 22/11/2017 10:04 AM

Catherine Andrews <catherine.a@placedesigngroup.com>

RE: 20171121 - Request for applicant agreement - amended concurrence agency response - SDA-0415-019880 - Clay Gully

To ● Alice Davis

i You replied to this message on 22/11/2017 10:05 AM.

Yes, we agree to amendments to the conditions that allow the dates to be updated.

Kind Regards,

Catherine Andrews Senior Town Planner
catherine.a@placedesigngroup.com
M +61 439 797 212

T +61 7 3852 3922
131 Robertson Street
Fortitude Valley 4006 QLD Australia

Twitter / LinkedIn / Instagram / Facebook
placedesigngroup.com



Mayor Williams declared a conflict of interest in the following item, stating that the Applicant appears on the Mayor's Gift Register. Mayor Williams left the meeting at 10.29am and Deputy Mayor Boglary presided as chair.

11 REPORTS TO COUNCIL

11.1 COMMUNITY & CUSTOMER SERVICES

11.1.1 ROL005912 – 21-29 & 31 CLAY GULLY ROAD AND 39 BRENDAN WAY, VICTORIA POINT – ASSESSMENT REPORT

Objective Reference: A2584296
Reports and Attachments (Archives)

Attachments:

1. [Locality Plan](#)
2. [Site aerial photo](#)
3. [Reconfiguration Site Plan](#)
4. [RPS zoning map](#)
5. [Local Development Area plan](#)
6. [Draft City Plan zoning](#)
7. [Draft Structure Plan](#)
8. [Mapped ecological corridor](#)
9. [State concurrence response](#)
10. [Koala Conservation mapping](#)
11. [Infrastructure Agreement](#)

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

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

Report Authors: Emma Martin
Senior Appeals Planner, Planning Assessment
Charlotte Hughes
Principal Planner, Planning Assessment

PURPOSE

This Category 4 development application is referred to Council for determination.

Council has received an application seeking a Development Permit for Reconfiguring a Lot for 270 lots, open space, an ecological corridor and road, over 8 stages on land at 21-29 & 31 Clay Gully Road and 39 Brendan Way, Victoria Point.

The application has been assessed against the provisions of the relevant planning instruments and the proposed development is considered to conflict with these provisions. This is discussed in more detail under the issues heading of this report.

The key issues identified in the assessment of this proposal are:

- The principle of development
 - Conflict with the South East Queensland Regional Plan 2009-2031 (SEQR).
 - Conflict with the Redlands Planning Scheme.
 - The Structure Plan

- Ecology
 - Traffic
 - Sewer, water and stormwater
 - Parks
 - Land use
 - Community facilities
- Reconfiguring a Lot
 - Ecological corridors
 - Layout and density
 - Stormwater
 - Sewer/Water
 - Open space
 - Earthworks
 - Traffic impact and access
 - Reverse amenity impacts
 - Odour and noise - adjoining poultry farm
 - Noise – adjoining Victoria Point Baptist Church

It is considered that the proposed development conflicts with the Redlands Planning Scheme and the SEQRP. However, in accordance with section 326(1)(b) of the *Sustainable Planning Act 2009* (SPA), sufficient grounds to justify approval despite the conflicts have been identified. It is therefore recommended that the application be approved, subject to conditions.

BACKGROUND

The development application was properly made on 30 March 2015. It proposed 289 lots, road and park over 7 stages.

The statutory timeframes prescribed under the SPA stipulate that a decision was due by 8 September 2017. The decision was not made in this time, however the application is impact assessable so there are no deemed approval provisions.

ISSUES

Development Proposal & Site Description

Site & Locality

The application relates to Lot 1 on RP72635, Lot 4 on RP57455 and Lot 1 on RP95513 with a street address of 21-29 & 31 Clay Gully Road and 39 Brendan Way Victoria Point (see **Attachment 1 and 2**).

The lots have been historically used for rural uses/hobby farming and contain existing residential dwellings, outbuildings, and two dams. The lots are largely devoid of vegetation, with only a scattering of trees throughout the 22ha.

A poultry farm was previously operational upon Lot 1 on RP72635. While the chicken sheds remain in situ, the use has ceased.

The existing dwellings and outbuildings to the far western boundary of Lot 1 are to be retained and located within one of the new residential allotments.

Proposal for decision

The applicant has applied for a Development Permit for the Reconfiguration of a Lot, which following a number of changes is proposed to be for a 3 into 270 lot

subdivision with open space, ecological corridor, stormwater management areas and road (see **Attachment 3**)

A summary of the proposal is provided below:

Aspect of proposal	Detail/comment
Total site area:	22.79ha
Net developable area:	20.81ha
Number of existing lots:	3
Number of proposed lots:	270 (including 7 vendor lots*) *vendor lots are lots that have been negotiated between the developer and the land owner as a condition of sale. They will likely be developed in the short term for large lot housing to be occupied by the existing owner and relatives, but will likely be redeveloped in the future for smaller lots
Lot sizes:	400m ² to 4553m
Net residential density:	13 dwellings per hectare
Minimum lot frontage widths	12.5m
Access:	Via: A new 25m wide new road connecting lots within stage 3-8 to Clay Gully Road. A new 15m wide road access off Brendan Way for lots in Stage 1 & 2.
Covenants, easements or restrictions:	None
Land contamination:	None
PIP:	Park on adjoining site to the east: VPRP-018 Stormwater: Along Clay Gully Rd.

Changes to the proposal

On three occasions during the decision stage of the application the applicant notified Council and the former Department of Infrastructure, Local Government and Planning (DILGP) that minor changes had been made to the proposal. These are detailed below:

16 November 2015 – Response to Redland City Council (RCC) Information Request - Layout Revision C

The first change to the application occurred in response to an Information Request issued by officers. It made a number of changes to the application, including the following:

- Reduction in number of lots from 289 to 266 lots.
- Increased lot sizes for lots adjoining Park Residential zoned properties (Hanlin Place and Barcrest Drive) – minimum 800m².
- Increased lot sizes adjoining Brendan Way to be more consistent with the existing density in the street.
- Road and lot configuration changes.
- Minimum lot size maintained as 312m².
- Local park added adjoining the Victoria Point Baptist Church in the north of the site.

18 July 2017 – Minor Change - ROL Layout Revision I.

- Increase in proposed number of lots from 266 to 285 lots.
- Various changes to lot sizes, with the minimum proposed to be increased to 350m².
- The large vendor lots in the westernmost part of the site slightly reduced in size to accommodate widening of Brendan Way (from 20,749m² to 20,622m²).
- Lots adjoining Hanlin Place properties reduced in size from an average of 800m² to an average of 775m², with the depth of lots reducing from 40m to 31m and the width of lots increasing from 20m to 25m. The total number of lots adjoining Hanlin Place properties reduced from 14 lots to 11 lots. These changes have been made to accommodate the widening of the access road.
- Removal of the east-west road connection through the estate to address submitter concerns that the link will create a rat run for drivers wishing to skip congestion and signalised intersections along Cleveland-Redland Bay Road. This has consequential lot configuration changes – road and lot layout.
- Changes to staging – this is a result of changes to the road and lot layout.
- Changes to the extent of open space provision. The local park previously located along the northern boundary was removed following officer advice that the infrastructure was not considered to be trunk. The layout reverted to the original proposal, that lots be located in this area.
- Minor changes to the configuration to stormwater management areas.

29 August 2017 – Minor Change - ROL Layout Revision J

- Decrease in the number of lots from 285 lots to 263 lots.
- Various changes to lot sizes, within the minimum lot size increased to 400m².

13 November 2017 – Minor Change - ROL Layout Revision K

- Introduction of an east-west corridor along the southern boundary of the site.
- Alteration to the north-south corridor/drainage line – reducing the width of the corridor from 70m to 47m, consistent with the connecting corridor to the north of the site.
- Subsequent changes to lot and road layout and associated changes to lot size (no change to the minimum lot size).

All proposed changes are considered to be a minor change, in accordance with the definition outlined in section 350 of the *Sustainable Planning Act 2009*. This means they do not result in an additional referral triggers, they do not change the type of development proposed or the level of assessment and they are not considered to result in substantially different development.

The majority of these changes are easily identifiable as minor in nature, especially within the context of the application, however two key changes may be deemed more significant and therefore necessitate further explanation. These are the changes proposed along the northern boundary of the site as part of revision I, specifically the removal of the proposed local park and reintroduction of lots adjoining the Baptist church and also the reduction in lot size of all proposed lots along the northern boundary (adjoining Barcrest Drive properties). For these matters the relevant part of the test to consider is whether these changes comprise “substantially different

development". In this regard there is a statutory guideline that provides some further clarification on what this means, specifically:

- a) Involves a new use with different or additional impacts
- b) Results in the application applying to a new parcel of land
- c) Dramatically changes the built form in terms of scale, bulk and appearance
- d) Changes the ability of the proposal to operate as intended
- e) Removes a component that is integral to the operation of the development
- f) Significantly impacts on traffic flow and the transport network, such as increasing the traffic to the site
- g) Introduces new impacts or increases the severity of known impacts
- h) Removes an incentive or offset component that would have balance a negative impact of the development
- i) Impacts on infrastructure provision, location or demand

The most relevant point for these changes is g). In this regard it should be noted that the original layout proposed 29 lots along the boundary with Barcrest Drive properties and this was reduced to 15 following the response to Council's original Information Request. In February 2016 however, officers wrote to the applicant to request further information with regard to the broader development area and the requirements of the *South East Queensland Regional Plan 2009* (SEQRP) to ensure that the proposed development was using the land efficiently. In preparing their response the applicant also considered the draft City Plan intent to zone additional land within the Emerging Community Zone, including lots adjoining the subject site in Barcrest Drive and Hanlin Place. Therefore in order to demonstrate that the subject proposal was the most efficient use of land the applicant considered the highest and best use of those lots. In this regard they considered that lots in Barcrest Drive had potential to be developed for a more intense form of residential use (this is discussed in more detail under the density headings of the report) and as such the applicant proposed to increase the number of lots in the application to 28 lots.

In relation to the four lots proposed adjoining the Victoria Point Baptist Church the perceived impact of the change relates to reverse amenity impacts that would result from noise complaints from future residents of the proposed lots. The applicant included evidence from an acoustic consultant that noise impacts could be managed and conditions can be included to ensure these impacts are addressed. This is reflected in the noise section of this report. These changes are not therefore considered to result in a change that is substantially different development.

In relation to the remaining lots:

- 6 and 8 Barcrest Drive will have 3 additional lots than in the previous layout
- 4 Barcrest Drive will have 2 additional lots
- 19 Clay Gully Road will have 1 additional lot

The dwelling house associated with 19 Clay Gully Road is located the closest to the adjoining boundary and is set back approximately 10m from the boundary and incorporates a dam and vegetation along this boundary. It will experience only one additional lot than the previous layout plan and as such, and within this context the change is not considered to increase the severity of a known impact.

The other three dwelling houses are set back 20-28m from the adjoining boundary and all have mature vegetation interspersed along the boundary. The large scale of

the properties and significant setbacks of the dwelling houses means there is also capacity to increase landscape planting should it be preferred. Two of the properties (4 and 6 Barcrest Drive) comprise large sheds along that boundary (15-20m long), with the other (8 Barcrest Drive) having an approved shed along the same boundary that is not yet constructed. These structures provide additional existing screening.

It is important to consider, however that the test must be considered within the context of the development as a whole and the overall impact of the development. Within this context the impact resultant of the additional lots is considered negligible and is not therefore considered to result in substantially different development.

Land use designation

The site is currently zoned *Rural Non-Urban* under the *Redlands Planning Scheme v7.1* (RPS) (see **Attachment 4**). The Scheme's *Habitat Protection Overlay, Waterways, Wetlands and Moreton Bay Overlay, Acid Sulfate Soils Overlay, Bushfire Hazard* and *Protection of the Poultry Industry Overlay* are all relevant.

The SEQ Regional Plan (SEQRP) designates the area as a local development area, known as the *Victoria Point Local Development Area* (VPLDA), within the urban footprint (see **Attachment 5**). Council's draft City Plan has incorporated this development area and some additional land into the *Emerging Community Zone* (see **Attachment 6**).

Application Assessment

Sustainable Planning Act 2009

In accordance with the transitional provisions of the *Planning Act 2016* set out under section 288, this application must be assessed and decided in accordance with the SPA under which it was made.

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

SEQ Regional Plan 2009-2031

The application was lodged (and properly made) on 30 March 2015 when the SEQRP 2009-2031 was in effect. Although this planning instrument has since been superseded by the current 2017 regional plan, which came into effect on 11 August 2017, the latter does not apply to this assessment. Section 317(1) of the SPA 2009 provides the assessment manager with the power to give weight to new planning instruments, codes, laws and policies that come into effect after an application is made, this is however limited to applications that have not yet moved into decision stage when new instruments etc. come into effect. This application moved into decision stage on 16 December 2016 and as such Council must assess the application against the SEQRP 2009-2031.

Part A of the SEQRP (Introduction) explains the effect of the SEQRP, and stipulates (page 5):

“The following parts of the SEQ Regional Plan are relevant when assessing a development application or an application for approval of a master plan against or having regard to the SEQ Regional Plan:

- *the sub-regional narratives in Part C*
- *the regional policies in Part D.*

An application conflicts with the SEQ Regional Plan if it does not comply with the sub-regional narratives in Part C or the regional policies in Part D. If there is an inconsistency between the sub-regional narratives in Part C and regional policies in Part D, the sub-regional narratives prevail.”

The relevant parts of the sub-regional narrative for Redland are set out from page 30 of the SEQRP. It refers to the “*Victoria Point Local Development Area*”, which incorporates the subject site. With regards to this specific designation the following extract from the narrative is of relevance:

“The Victoria Point Local Development Area...requires further investigation and planning scheme amendments before any development can proceed ... The timely provision of transport infrastructure – including increased road capacity and quality public transport infrastructure... will lead the sequenced development of urban communities in Local Development Areas.”

Although not explicit the further investigation and planning scheme amendments referred to in the sub-regional narrative are taken to mean the development of a structure plan that has been adopted and incorporated into a planning scheme, rather than any unrelated amendments. The RPS 2006 has been amended a number of times since the adoption of the SEQRP, however none of these amendments relate to the further investigation required and as such are not considered relevant. On this basis the application is taken to conflict with the SEQRP and in accordance with Section 326 (b) Council’s decision must not conflict with a relevant instrument unless “*there are sufficient grounds to justify the decision despite the conflict*”. Before these grounds are considered it is important to also assess the application against the regional policies contained in Part D of the SEQRP, as this will help determine the scale of the conflict, which is essential in determining whether any relevant grounds are sufficient to overcome it.

Part D – Regional Policies sets out the Desired Regional Outcomes (DRO) sought, the principles required to achieve these outcomes, specific policy statements to indicate what must be done for the principles to have effect and programs, which identify the actions that need to be implemented.

The application must comply with all DROs within the SEQRP, however the following are considered to be most relevant to this application:

- Sustainability and Climate Change
- Natural Environment
- Strong Communities
- Compact Settlement
- Infrastructure
- Water Management
- Integrated Transport

Under the Compact Settlement DRO Policy 8.10 *Development Area Delivery* explains the purpose of development areas and highlights the particular importance of comprehensive planning for these areas to ensure the local environment is protected, land uses are optimally distributed and infrastructure is provided in an efficient and timely manner.

Structure Plan

To demonstrate compliance with the above SEQRP policies, the applicant was asked to undertake a detailed structure planning exercise. The SEQRP anticipates that this will be achieved through planning initiated and led by Councils, developers or the

State Government, as appropriate. It identifies that such plans can be prepared and approved formally as a structure plan, or could be prepared informally and then used as a basis for submitting a proposed planning scheme amendment or planning application.

The applicant was asked to address the following matters in their structure planning work for the VPLDA:

- a) Environmentally significant areas including areas of bushland, corridors and foreshores, waterways and wetland; and significant individual trees;
- b) Natural hazards within the site or surrounding it.
- c) Topography, landscape features, views and vistas;
- d) Existing movement network and future connections and their treatments; including public transport routes and their stops and pedestrian and cyclist paths;
- e) Existing and proposed open space networks;
- f) Existing and proposed infrastructure networks;
- g) Existing residences and structures, land uses and approvals on the site and surrounding it;
- h) The location of schools, shopping centres, employment generators and community facilities; and
- i) The location of operating poultry farms or other potentially impacting activities.

Although the structure planning exercise for the VPLDA is still underway and many of the above matters remain unresolved at this time; the following provides a summary of how the application and draft structure planning work to date respond to the regional policies and whether the proposal would be consistent with the development intent for the VPLDA (refer to **Attachment 7** for the draft structure plan).

Land use and density

The Compact Settlement regional policy seeks to conserve land by making the most efficient use of it by achieving a minimum net residential density of 15 dwellings per hectare (dph) in development areas. This will help provide a mix of dwelling types to match the community needs, household sizes and structures; and provide housing choice and affordability.

In relation to the development site itself however, the density proposed (13 dph) is less than that sought by the SEQRP. It is important to acknowledge that the proposed vendor lots will have future development potential. The applicant submitted a concept layout plan to demonstrate that the lots could be subdivided efficiently and it is likely that this part of the proposal could yield an additional 25 - 30 lots. In this scenario the development density increases to approximately 14dph. In order to meet the minimum requirements of the SEQRP the proposal would need to deliver an additional 14-17 lots.

To determine whether this lesser density is appropriate, the proposal must be considered within the context of the structure plan as a whole, particularly with regard to the land use intent. Although this is an unresolved matter the economic consultant for this application, as well as the consultant for the development proposed by Fiteni Homes at the other end of the structure plan, agree that a small scale centre should be located within the development area to service localised convenience and shopping needs. The location and overall scale of this use is still to be determined, but the principle that it is required has been generally considered reasonable by

officers. In addition, both consultants also recommend a mix of house types/densities to create a vibrant community and provide housing choice. They recommend that this can be achieved with medium density housing close to the centre, bus routes and open space/recreation precincts. This work is also being finalised but officers consider it is reasonable to conclude that in locations where this can be delivered development will be achieving greater than the minimum density required by the SEQRP. It is likely that this was the intent of the density targets in the SEQRP, given areas like the subject land must deal with development constraints such as interface issues, including impacts on the character of existing streets and adjoining properties (these issues are discussed in more detail in the Redlands Planning Scheme section of this report).

On this basis, although the proposed development is just short of complying with the minimum density required by the SEQRP the proposed development is considered appropriate having regard to the constraints of the site, and the likelihood that higher density development will get delivered elsewhere within the structure plan.

Ecology

The Natural Environment regional plan policy seeks to protect, retain and restore the regions rich biodiversity ecosystems. The development will be providing part of a primary corridor connection which has been identified through the draft structure planning process for the VPLDA. A 40m wide ecological corridor is to be provided to the south of the site, which will ultimately be widened into an 80m wide corridor when land to the south develops (also discussed further in the assessment against the RPS below).

This will ensure that the site caters for fauna movement between areas of existing habitat and will provide for future biodiversity corridors and habitat areas e.g. rehabilitation of currently cleared areas to restore connectivity, in accordance with the Natural Environment regional policies of the SEQRP.

Bushfire Risk and Resilience

The Sustainability and Climate Change regional plan policy seeks to build resilience in new communities and ensure design considerations are guided by the natural environment and climate. The structure plan is supported by a Strategic Bushfire Hazard Assessment and Management Plan, which makes the following recommendations for the settlement pattern:

- The design of environmental corridors as low hazard where possible.
 - Incorporating perimeter roads between any development and adjoining vegetation is recognised as international best practice (road reserves measuring 20m in width). To provide guaranteed separation/defensible space in perpetuity, facilitating emergency vehicle access and ensuring evacuation egress for passing vehicles.
 - Property setbacks of 4-6m for properties adjoining perimeter roads - Building envelopes may assist in achieving this.
 - Minimise the use of cul-de-sac outcomes, or at least avoid these within 100m of a corridor.
 - Building construction solutions – Australian Standard.
 - On street parking relative to the location of hydrants.
 - Good water supply.
 - Site specific assessment to support development applications.
-

The application does not currently comply with these recommendations, specifically in relation to the inclusion of perimeter roads to corridors and minimum setback requirements however this could be ensured by conditioning compliance as part of an approval. This will ensure the development complies with the Sustainability and Climate Change regional plan policy.

Public Transport

The Integrated transport regional plan policy seeks to connect people, places, goods and services; and promote public transport use, walking and cycling. As part of the structure planning process consideration is being given to existing and planned future infrastructure networks across the entire VPLDA. The application site itself will be providing part of a 25m wide collector street, which can ultimately facilitate a future bus route to the proposed neighbourhood centre identified in the draft structure plan. This collector street will provide safe and convenient passenger accessibility to public transport, provide access to sustainable transport choices and reduce car dependency in accordance with the Integrated Transport regional policies of the SEQRP.

Infrastructure

Water and sewer upgrades to cater for the development are to be secured via planning conditions and an Infrastructure Agreement (IA). This will ensure that the development supports the delivery of the preferred land use and that the upgrades will be provided in a timely manner, in accordance with the Infrastructure and Compact Settlement regional policies of the SEQRP.

There is uncertainty however over the necessary local road infrastructure that will need to be upgraded to facilitate the development. The two roads most affected by the structure plan area are Bunker Road and Double Jump Road, which form the northern and southern boundaries of the development area. Officers sought the advice of an independent traffic consultant to assist with the review of the traffic engineering material informing the structure plan. The traffic engineer advised that there was a limit in the upgrade works that could be made to Bunker Road and that it was generally appropriate in its current form. In his view further works to Bunker Road would be undertaken as development takes access from it and these improvements would suffice. Double Jump Road however is considered to be constructed to a rural standard at present and would need to be upgraded to an urban standard to support the increase in vehicle movements related to the development.

Council's current Priority Infrastructure Plan (PIP) identifies a substantial upgrade to Double Jump Road as part of the Victoria Point Bypass, in which it is proposed to duplicate the road to a four lane cross section. The draft Local Government Infrastructure Plan (LGIP) has scaled back this work in response to the capping of infrastructure charges. It therefore identifies more minor widening of the road pavement to incorporate shoulders and modifications to road drainage. In addition, uncertainty over the upgrade plans for Cleveland Redland Bay Road intersections may affect the ultimate design and alignment of Double Jump Road, specifically at its eastern end where the two intersect. The report highlights that there are considerable constraints associated with the intersection, not least of which is that the BP garage located on the corner appears to have been constructed partially within road reserve. The applicant's traffic engineer has highlighted another option being the realignment of Double Jump Road, through private property to create a new signalised intersection at Anita Street.

In order to address this uncertainty the applicant has provided a worst case scenario concept design for Double Jump Road (worst case in terms of cost). The design incorporates Council's planned realignment of Kingfisher Road / Double Jump Road / Heinemann Road, the LGIP planned widening of Double Jump Road, unplanned vertical realignment works, additional drainage works and the realignment of the eastern access to Cleveland-Redland Bay Road to Anita Street and the upgrade of the intersection to a four way signalised intersection.

The traffic impact assessment supporting the structure plan, which relies on Council's traffic modelling for the City, identifies that approximately 32% of vehicle trips on the road will be associated with the structure plan area. The total infrastructure charges anticipated to be received within the structure plan area would be sufficient to fund the proportional cost of the necessary road upgrades. It is also worth noting that the majority of these works are already planned for within the Local Government Infrastructure Plan (LGIP), with the realignment of the eastern end of Double Jump Road and the associated intersection works excepted. These works have largely therefore been planned to be delivered by Council. The point of this exercise was to determine whether additional unplanned upgrades would necessitate additional payments by the developers within the structure plan. It has however been demonstrated that the infrastructure charges that will be collected as part of these developments will cover any additional cost to Council.

It is noted that Council officers cannot confirm whether the former Department of Infrastructure, Local Government and Planning (DILGP) has certainty over the delivery and funding of necessary upgrades to State infrastructure to service the development area. The Department is a concurrence agency with respect to the development area designation and the regional plan requirements and it has provided a concurrence agency response with no requirements for contributions to wider network upgrades. The response requires small scale modifications associated with the intersection at Cleveland-Redland Bay Road, Benfer Road and Clay Gully Road to achieve a 'no worsening' effect only. The applicant's traffic report, which underpins the structure planning work, highlights that once the proposed collector road connects to Double Jump Road (when land to the south develops) the intersection at Double Jump Road and Cleveland-Redland Bay Road must be upgraded. As discussed above the report nominates two options with regard to the upgrade; the first being the signalisation of the intersection and the second being the diversion of Double Jump Road through privately owned land to connect to Anita Street. In the latter option the existing intersection at Cleveland-Redland Bay Road and Double Jump Road would need to be modified to a left-in/left-out. Both options necessitate land resumptions and will be costly and difficult to deliver. It is difficult therefore to see how the Department determined that the application complies with the SEQRP in relation to state interests and the structure planning. Regardless this is the jurisdiction of the referral agency not Council.

Community facilities

The Strong Communities regional plan policy seeks to build inclusive and healthy communities, that have access to a range of services and facilities and that meet diverse community needs.

The draft structure plan identifies the location of a neighbourhood centre and local centre within the VPLDA, which are to the south of the development site. Although the Retail needs assessment is still under review, officers consider that the location of the neighbourhood centre on the development site itself would not be appropriate. Council's Social Planner was consulted and they confirmed that financial

contributions to regional facilities were preferred over onsite provision within the structure plan. Approval of the application would not therefore prejudice the future provision of community facilities for the VPLDA and the proposal would not conflict with the Strong Communities regional plan policy.

Parks/recreation

The applicant submitted a Parks Analysis Report to underpin the structure plan, the report was prepared by PIE Solutions and identifies that in accordance with the level of service planned for by Council's Open Space Strategy the development area is adequately serviced by community (district) and destination (regional) recreational parks. The report notes that the City generally has a deficiency of district sports facilities but that Council has recently purchased land near to the site (Heinemann Road) for this purpose and financial contributions from future development of this area will contribute to that. With regard to local park provision the report nominates that four (4) to five (5) local parks would be required to deliver the standard of service sought by the Open Space Strategy.

In addition to this work, Fiteni Homes has prepared a draft Open Space and Recreation Study in relation to their application (ROL006166) also within the development area. This report nominates that four (4) local parks should be delivered within the structure plan area; one (1) large local park (min 1ha) supporting active recreation, one (1) local park between 0.5ha and 1ha and then two (2) local parks of at least 0.5ha.

It is considered that in delivering these parks the structure plan will provide for healthy and safe environments that encourage community activity, participation and healthy lifestyles and prevent crime in accordance with the regional policies of the SEQRP. The proposed development will not be required to deliver a local park as a more appropriate location to service the catchment is to the south of the subject site. Notwithstanding, the development will provide for the informal kick about space mentioned above.

Conflict with the SEQRP

It is considered that the proposal does conflict with a number of provisions within Part D of the SEQRP, specifically in relation to the lack of certainty over the strategic planning for the area. When this is balanced against the established position that the proposal conflicts with part C of the SEQRP, it is considered a fairly significant conflict. A lack of confidence over the structure planning goes to the heart of the intent of the applicable regional planning policies for development areas, that development should not proceed until certainty on these matters is established.

Notwithstanding this, it is also necessary to consider the implications of these unresolved matters in relation to the proposed subdivision. The above assessment has demonstrated that the subdivision would not compromise the ultimate intent of the wider area and is generally consistent with the development pattern and infrastructure delivery expected had the structure planning been resolved. The areas where this certainty is not established, i.e. in terms of ecology, can be dealt with by condition. Having regard to this it is considered that the level of conflict is somewhat tempered and is therefore less critical than may be determined at first glance.

Sufficient grounds to justify a conflict with the SEQRP

Council will be aware that it's decision must not conflict with a relevant instrument unless "*there are sufficient grounds to justify the decision despite the conflict*" and that Council is bound to consider this test in accordance with the SPA. Based on the above assessment, there are considered to be sufficient grounds to justify the conflict with the SEQRP, for the following reasons:

- The site is part of the VPLDA which has been specifically identified to provide additional land supply for areas within the Urban Footprint and is an area where future growth is expected;
- The scale of the conflict with the SEQRP is considered to be moderate, having regard to the level of compliance with the regional policies in part D of the SEQRP – specifically the protection/enhancement of biodiversity values, the efficient use of land and timely delivery of infrastructure;
- Although the structure planning exercise for the VPLDA is still underway; officers consider that sufficient information has been provided to determine that the proposed development is an appropriate use of the land (residential), protects the strategic environmental values of land adjoining and adjacent to the subject site and secures the delivery of necessary infrastructure to support the proposal and wider development area. Finally, the information provided has given sufficient certainty that approval of the proposed development does not prejudice the right and orderly development of the remaining development area, which is the ultimate intent of the applicable regional policies.

State Planning Policies & Regulatory Provisions

State Planning Policy/Regulatory Provision	Applicability to Application
State Planning Policy April 2016	<p>Natural Hazards, Risk & Resilience Parts of the western extent, and south-east of the subject site are mapped as Potential Impact Buffer under the SPP. Land to the west and south is covered in sparse vegetation and the level of risk is considered to be tolerable, in accordance with the SPP. Future dwellings within these lots along the western boundary will be required to be certified as meeting MP2.1 Buildings in Bushfire-Prone Areas of the QDC.</p> <p>Biodiversity MSES – Regulated Vegetation (intersecting a watercourse) is located in the central north of the site, in the location of an existing dam. This will form part of a future environmental/drainage corridor and stormwater basin.</p> <p>Stormwater Quality The development complies with the requirements of the SPP in relation to stormwater.</p>
Koala Conservation SPRP	The site is within a Priority Koala Assessable Development Area under the SEQ Koala Conservation SPRP and is mapped as containing Medium Value Rehabilitation Areas. The application is assessable against <i>Division 6 – Development in a Priority Assessable Area</i> and a detailed assessment is provided below.
SPRP (Adopted Charges)	The development is subject to infrastructure charges in accordance with the SPRP (adopted charges) and Council's adopted infrastructure charges resolution. Details of the charges applicable have been provided under the Infrastructure Charges heading of this report. The structure plan area is outside of Council's Priority Infrastructure Area, this means that Council's infrastructure planning has not anticipated the development and has not therefore planned the necessary infrastructure to support it. On this basis Council can reasonably require developments provide or contribute to

State Planning Policy/Regulatory Provision	Applicability to Application
	<p>additional infrastructure</p> <p>In the most part the capped charges and infrastructure provision required by each development will cover the infrastructure provision required to support the development area. There is one exception to this; sewer. This is explained below:</p> <p>It has been identified that the application requires additional trunk infrastructure that has not been planned for in Council's Priority Infrastructure Plan, firstly sewer upgrade works and upgrade to the Victoria Point WWTP. These additional requirements will be contained within an Infrastructure Agreement.</p> <p>More detail on the content and conditions within this is located under the Infrastructure heading in the RPS section of this report.</p>

SEQ Koala Conservation SPRP

Assessment against Division 6 – Development in a priority koala assessable development area (**Attachment 10**):

Column 2 Assessment Criteria for assessable development	Officer Comments
1. Site design does not result in the clearing of non-juvenile koala habitat trees in areas of bushland habitat.	The proposal does not involve the removal of non-juvenile koala habitat trees in areas of bushland habitat.
2. Site design must avoid clearing non-juvenile koala habitat trees in areas of high value rehabilitation habitat, and medium value rehabilitation habitat, with any unavoidable clearing minimised and significant residual impacts counterbalanced under the Environmental Offsets Act 2014.	<p>The subject site is largely clear of vegetation with the majority of non-juvenile koala habitat trees (NJKHT) scattered throughout the site. This makes retention of all NJKHTs impossible with the redevelopment of the site and in this case removal is considered to be unavoidable. The application is supported by a tree retention plan which identifies that between 52 – 71 NJKHTs will be removed and approximately 25 to be retained. The variation accounts for future arborist's reports on some trees. Since the application was lodged, the layout has been amended and the tree retention plan originally submitted with the application is no longer accurate. An updated plan will be provided as part of the Operational Works application.</p> <p>The proposed development incorporates environmental corridors where removed trees can be mitigation with onsite revegetation. There is considered to be sufficient room onsite to achieve offset requirements in accordance with the rate set out by the Environmental Offsets Act. These will be conditioned.</p> <p>Conditions can also be drafted to require environmental offsets to counterbalance any significant residual impact after on site revegetation is undertaken if there is not sufficient room onsite.</p>
3. Site design provides safe koala movement opportunities as appropriate to the development type and habitat connectivity values of the site determined through Schedule 2.	<p>The proposed development provides for a 40m wide east-west ecological corridor (which will become part of an 80m wide corridor in total). This will provide opportunities for safe koala movement through the site.</p> <p>It is noted that a trunk collector road traverses the corridor, which will have an impact on safe koala movement through the site. To address this impact the developer is required (as a clause of the Infrastructure Agreement) to construct a fauna underpass and incorporate sensitive road design features to ensure safe koala movement is facilitated.</p> <p>In addition the north-south drainage line/corridor, whilst primarily for the conveyance and treatment of stormwater, will also provide a link to established habitat to the north of the subject site.</p>

Column 2 Assessment Criteria for assessable development	Officer Comments
4. During construction phases: a. measures are taken in construction practices to not increase the risk of death or injury to koalas; and b. native vegetation that is cleared and in an area intended to be retained for safe koala movement opportunities is progressively restored and rehabilitated.	Recommended conditions will require an Ecological Corridor management plan and a detailed road crossing treatment plan to be submitted for approval at operational works stage.
5. Native vegetation clearing is undertaken as sequential clearing and under the guidance of a koala spotter where the native vegetation is a non-juvenile koala habitat tree.	A condition for a fauna spotter will be included as part of the decision notice for Operational Works.
6. Landscaping activities provide food, shelter and movement opportunities for koalas consistent with the site design.	To be provided as part of the Ecological Corridor management plan.

Redlands Planning Scheme

The application has been assessed under the RPS version 7.1. The application is impact assessable and therefore the entire planning scheme is applicable to the assessment, however the following are considered to be of most relevance:

- Rural Non-Urban Zone code
- Habitat Protection Overlay code
- Flood Prone, Storm Tide and Drainage Constrained Land Overlay code
- Waterways, Wetlands and Moreton Bay Overlay code
- Protection of Poultry Industry Overlay code
- Bushfire Hazard Overlay code
- Acid Sulfate Soils Overlay code
- Reconfiguration code
- Excavation and Fill code
- Infrastructure Works code
- Stormwater Management code

The key issues identified during the assessment are detailed below.

The principle of development

The land is zoned as Rural Non-Urban under the RPS and outcomes of the zone seek to provide for land uses that rely on traditional and emerging rural activities and which encourage enjoyment of the rural environment e.g. recreational and tourism uses. Furthermore, overall outcomes of the Reconfiguration Code seek to provide for lots in this zone which are of sufficient size to accommodate productive agricultural activities, with a minimum lot size of 20 hectares sought under Table 1 of the code.

The proposed subdivision provides residential lots ranging in size from 400m² to 4553m², which is not in accordance with the overall outcomes sought for the zone. Consequently the development conflicts with the RPS. Council's decision must not conflict with a relevant instrument unless "*there are sufficient grounds to justify the decision despite the conflict*" and it is therefore considered necessary to demonstrate whether there are sufficient grounds to justify the decision, despite the conflict.

One of the matters to be considered in determining whether there are sufficient grounds is whether the relevant instrument is out of date. In this respect it is noted that the current land zoning does not reflect the future planning intent for the area. As outlined above, under the SEQRP the site is located within the VPLDA, which has been identified to provide additional land supply and where future growth is expected.

Furthermore, although this document carries no statutory weight, it is also worth noting that the land is proposed to be zoned as Emerging community under the draft *Redland City Plan* (City Plan). The purpose of the Emerging community zone is to 'guide the creation of functional, efficient and attractive communities in the newly developing parts of the city' and that this is to be achieved through structure planning of the area, which is currently being undertaken.

Sufficient grounds to justify a conflict with the RPS:

Based on the above assessment, there are considered to be sufficient grounds to justify a conflict with the Rural Non-Urban zoning under the RPS, for the following reasons:

- The current planning instrument, being the RPS, is out of date due to its age (originally adopted in 2006).
- Considering the land use intent under the SEQRP (as discussed in detail above) and the future zoning under the draft City Plan, the current land zoning under the RPS does not reflect the planning intent for the area.
- A structure planning process is underway and it has been demonstrated that the development would not compromise the future planning intent for remainder of the VPLDA.

Density

The Reconfiguration code does not provide guidance on what density should be sought for this area; other than by providing a minimum lot size for the Rural Non-Urban zone. However it is noted that a dwelling density of 12-15 dph is sought for the Emerging Community zone under the draft City Plan and this is also reflected in the density targets set out by the SEQRP of 15 dph. The proposed development is a density of 13 dph and will increase to approximately 14dph when the vendor lots are redeveloped. In order to comply with the SEQRP requirements an additional 14-17 lots will be required.

It is noted that there are constraints/characteristics that affect how this increase in density can be appropriately achieved and these are discussed below:

- Lots adjoining properties within the Park Residential zone in Hanlin Place are proposed to be approximately 800m². Whilst these adjoining properties are also identified as Emerging Community zone in the draft City Plan, unlike the properties within Barcrest Drive, these are considered to be more constrained. All but one lot comprises environmental covenants and building envelopes to protect the vegetation on site and a number of the lots are also affected by significant flood mapping associated with Moorgurrapum Creek. The highest and best use of these lots is therefore limited and as such the proposed lower density of lots adjoining these properties is considered appropriate to allow greater setbacks to sensitive vegetation.
- Similarly, lots proposed along existing road frontages should have regard to the existing character of these streetscapes. On this basis the densities proposed fronting Brendan Way and Clay Gully Road are considered to be consistent with the character of these streets.

- Conversely, land directly to the north of the subject site and along Barcrest Drive comprises large Park Residential zoned (PRZ) properties. In the draft City Plan these lots are proposed to form part of the Emerging Community Zone and are relatively unconstrained. It is therefore anticipated that these lots will be developed in the future to achieve higher density residential development. Further, land immediately to the north of Barcrest Drive is zoned as Medium Density Residential zone, which is currently occupied by a retirement facility. It is therefore considered that the existing size of Barcrest Drive properties should not be considered a limiting factor to the density in this part of the development.

As discussed under the land use/density heading in the SEQRP section of this report, it is considered likely that medium density development will be delivered closer to future centre uses that will counterbalance the slight non-compliance with the minimum density requirement on site. In addition, it is considered that a lesser density is justified in this case due to the need to address constraints related to the existing character of the streetscape and the vegetation on larger adjoining lots.

Lot Size

Specific Outcome S2.1(2) of the Reconfiguration Code requires that the creation of subdivisions result in a “*mix of lot sizes that suit a variety of needs.*” Specifically in relation to Urban Residential zoned land (Specific Outcome S2.2) the lot sizes should be of a size and width that “(a) *achieve a density that meets expected population growth; (b) maintains a quality lifestyle; (c) meets the requirements of people with different housing needs; (d) provides housing choice.*” Although the subject site is not located within the Urban Residential zone, the provisions for this zone are considered the best fit for assessment purposes in this circumstance where the type of development proposed is not consistent with the zoning intent for the land, but where sufficient grounds have been identified to justify the conflict. In order to increase the minimum lot size in the development to 400m², variation in lot size has been limited. Of the 270 lots proposed, 222 lots are between 400m² and 510m², this is over 80%. This proportion increases to almost 85% when the vendor lots are discounted. It is difficult to conclude that this is the variety of housing mix anticipated by the Redlands Planning Scheme in this kind of housing estate, particularly noting that probable solution P2.1(2) of the code provides for lots of 350m².

It is likely that a more vibrant community would be achieved if the minimum lot size was lowered, for example to include some 150m²-250m² lots, greater variety in housing choice and product could be achieved. Smaller minimum lot sizes would also free up land to provide a greater number of medium-large lots, whilst ensuring development remains viable. It should also be noted that maintaining a minimum lot size of 400m² and even to an extent 350m² is a significant limiting factor to the site being able to achieve a density of 15dph to comply with the SEQRP, whilst also delivering a vibrant community with a broad mix of lots sizes and housing choice.

Although the proposed development provides for limited choice the structure plan as a whole has the potential to provide for greater variation. The application is constrained by the existing character of the surrounding streets and the subsequent need to provide larger lots.

The Overall Outcomes of the code seeks to achieve development that meets the needs of the diverse and changing needs of the community, whilst ensuring consideration is given to the local landscape setting and expected end uses. In this regard the application is considered to comply with the Reconfiguration Code.

Ecology

The site is covered by the Habitat Protection Overlay and mapped as Enhancement Area, with an Enhancement Corridor running along the southern part of the site, and traversing the middle of the site (**Attachment 8**). The Enhancement Corridor is intended to support a natural area network by enhancing/creating habitat linkages between areas mapped as Bushland Habitat to the south and west of the site.

Specific outcome S2.1(5) of the Habitat Protection Overlay Code (HPOC) seeks to locate development outside of the mapped corridor areas however, where this is not achievable, the corridor is to be expanded to no less than 100m in width. It is also worth noting that Council's draft City Plan and the draft *Wildlife Connections Plan 2017-2027* also seek to provide ecological corridors that have a minimum width of 100m.

The proposed subdivision however notes a 30m wide corridor running along the southern boundary of the site, which is traversed by a 25m wide road. The ultimate intention being that a corridor with a total of width 60m would be provided in the future; 30m being on the subject site itself and 30m being provided on land to the south when this develops.

Throughout the assessment of the application, officers advised the applicant that insufficient information/ justification had been provided to demonstrate that a corridor with a reduced width of 60m rather than 100m, would achieve the overall outcomes of the code. In the absence of adequate information, Council sought independent advice from an ecological expert, who regularly assists and gives evidence in Planning and Environment Court appeals, to determine the adequacy of the proposed habitat corridors for the proposed application. It was advised that while there are valid grounds to support a habitat corridor of 100m in width, a well-designed habitat corridor of 80m in width with a central core habitat of 30m in width would ultimately provide the standard of ecological corridor envisaged by the overall outcomes of the Habitat Protection Overlay Code. Recommendations in respect to the proposed treatment of the road crossing the eastern end of the corridor were also provided by the expert.

The applicant has subsequently agreed to increase the width of the proposed ecological corridor on the development site to 40m; with the remaining 40m to be provided on the adjoining lots to the south in the future. The landowner of these lots is aware of this requirement. The 40m wide corridor can be secured via planning condition and the applicant will be required to provide an Ecological Corridor Management plan and Road Crossing Treatment plan for approval at operational works stage, to ensure that the design of the corridor and road crossing achieve the desired end outcomes.

Stormwater

The majority of the site is in the Erapah Creek Catchment, which is located to the north. A smaller portion drains to the south and east toward Moogurrapum Creek.

The applicant has provided a Stormwater Management Plan that demonstrates the stormwater management systems proposed for the site incorporate Water Sensitive Urban Design features to meet the required Planning Scheme and SPP water quality and quantity requirements for the proposed development.

With regard to stormwater discharge the development:

- Incorporates stormwater detention and bio-retention measures for the western and eastern catchments.

- Includes proposed stormwater detention measures that result in a 'no-worsening' for peak discharge off the site to both Erapah Creek and Moogurrapum Creek.
- Provides proposed lots and roads that are flood free for all events including the 1% AEP.

In the absence of a finalised structure plan relating to stormwater provisions, the report has satisfactorily demonstrated that the approval of this application would not impact or affect the subsequent stormwater management and infrastructure provision for the structure plan area.

Sewer

The application is supported by a Sewer Network Analysis prepared by Cardno and dated August 2016. While the structure plan area is located within the vicinity of the Victoria Point Wastewater Treatment Plant (WWTP) catchment, servicing for this structure plan area remains unresolved at this stage. Redland Water and Waste (RWW) has analysed the current capacity of the WWTP and considering infill development potential within its catchment has identified that an upgrade to the WWTP is required to service the structure plan area as well as the Weinam Creek PDA. This means that additional financial contributions, over and above the capped charges, will be required by all developments within the structure plan area to contribute toward the upgrade.

Officers at RWW have identified the design, cost and licence implications of the upgrade and have advised that \$15M is required to fund the upgrade. This is partially covered by existing budget commitments for anticipated growth of almost \$3M and contributions that will be collected through capped charges of around \$9M, however there is an estimated shortfall of \$3,000,000. This sum must therefore be shared by the developers within the development area and the PDA. When calculated on a per lot basis this equates to an additional per lot contribution of \$1,348.00 (**Attachment 11**).

With regard to reticulated sewer infrastructure the lots will be serviced by:

- A central sewer route which will provide a connection to the north in Brendan Way, via a 150mm dia. gravity sewer to an existing 150mm diameter gravity drain.
- An eastern sewer route which will provide a connection to the east via a 300mm dia. gravity sewer along Clay Gully Road and a 300mm dia. gravity sewer across Cleveland Redland Bay Road.

The Infrastructure Agreement (IA) requires the developer to provide a financial contribution of \$1,348.00 per lot for wastewater infrastructure for the future upgrade of the Victoria Point Wastewater Treatment Plan; additionally the works and land dedication required to provide for the construction of a sewer gravity main are being secured by the IA, at no cost to Council.

Consequently, the development has demonstrated compliance with specific outcome S4 of the Infrastructure Works code and S1.4 of the Reconfiguration Code by providing an appropriate sewerage management strategy.

Open space

Specific outcome S1.3 of the Reconfiguration Code requires development to provide for public open spaces that are well distributed and provide for a range of passive and recreational facilities.

The landscaping plans provided show the inclusion of a local park within the open space corridor running through the middle of the site. This was added to the layout by the applicant following the draft recommendations of the '*Victoria Point West Local Development Area open space and recreation study*' prepared by Otium Planning Group and dated August 2017 for another development application within the development area (ROL006166), which highlighted that a local park was required on the subject land to ensure the future community was properly serviced.

However, following consultation with Council's City Infrastructure group it was determined that the subject site was not the optimum location to service the catchment, furthermore the proposed local park would be located within a drainage line and Q2 flood area, which mean park embellishments in this location would be flood affected and may become a maintenance burden to Council.

As discussed under the SEQRP heading of this report, following consultation with Council's City Infrastructure group, it was recommended that a proposed area within the open space corridor could be used as an informal kick about space; which would be low maintenance, would be able to better withstand the environmental constraints and would complement the formal recreational areas required within the structure plan, with the equipped local recreation park provided to the south where it would be more central to the catchment it serves.

Earthworks

The applicant will be required to provide a Construction Management Plan as part of the Operational Works approval, to ensure that works on the site relating to excavation and fill, will not cause environmental nuisance due to hours of construction, dust emissions and truck movements, in accordance with specific outcome S3 of the Excavation and Fill code.

Preliminary earthwork concept plans have been provided, however the applicant will be required to obtain Operational Works approval for earthworks associated with the reconfiguration. Retaining walls heights are to be limited to 1.5m in height, and must be tiered by 0.75m for every 1m above this, unless otherwise approved as part of the Operational Works application. Any future retaining structures that do exceed 1.5m will be required to be designed in accordance with probable solution P1 of the Excavation and Fill code, meaning they will be tiered and include landscaping to reduce the impact of their increased height.

Officers have noted that earthworks associated with the proposed development have the potential to affect vegetation on adjoining, privately owned, properties. As these are outside of the development area it has not been possible to establish the overall impact to this vegetation. As such it is considered necessary to include an advice note on any approval to highlight the responsibility of the developer to engage with these landowners to consider the most appropriate way to manage this risk.

Traffic

In accordance with specific outcome S1.2 of the Reconfiguration code and S7 of the Infrastructure Works code, the development is providing new public roads and/or upgrading existing public roads to provide safe and efficient access points and connections through the site.

The Road Hierarchy Layout Plan, which will form part of the approved drawings, shows the construction of a 25m wide residential collector street, which will provide a Bus Route through the site to serve local residents and ultimately connect through to the neighbourhood centre proposed as part of the structure planning work. Council's appointed Traffic Engineer provided advice that current best practice public transport

planning would not recommend a connection through the structure plan area, but would instead concentrate bus connectivity along the higher order roads of Bunker Road, Double Jump Road and Cleveland-Redland Bay Road. Notwithstanding, the applicant's traffic engineer was of the view that whilst this is true for the western end of the development area, the eastern portion would not be as well serviced and the development area therefore necessitated a bus route diversion through this part of the site. This was accepted by the State and in their referral response they incorporated a change to the ROL layout plan requiring the proposed collector road as a future bus route.

The intersection at Clay Gully Road / Benfer Road / Cleveland-Redland Bay Road is to be upgraded in accordance with State referral response (Left-out slip lane, road markings to prevent traffic blocking access to the retirement village etc.).

Barcrest Drive is proposed to be terminated in a cul-de-sac within the development site itself with a pedestrian connection through to Barcrest Drive. Officers consider that the proposed development should however provide a full vehicular connection to ensure a high level of connectivity is achieved within the structure plan having regard to the highest and best use of Barcrest Drive properties once the draft City Plan is adopted. A condition has been proposed to achieve this.

It is important to note that should Council wish to remove this requirement it will be incumbent on Council to pay for the connection in the future should it be desired. It is unlikely that this could be conditioned on future developers of Barcrest Drive properties given vehicle trips from these properties will most likely travel east to Clay Gully Road. Although it will provide future residents of Barcrest Drive with an alternative route should Clay Gully Road become unpassable (e.g. by a traffic accident or similar etc), it is likely to be more frequently used by future residents from the proposed development site and as such it is most appropriate that the subject proposal deliver it.

Water

The applicant undertook a Water Network Analysis by H2One Pty Ltd and it has been Water, that there is sufficient capacity within Council's water supply network to adequately service the proposed development without upgrades to existing infrastructure. Conditions of the permit require the application to connect all lots to reticulated water systems, in accordance with the Services Layout Plans and to construct external water supply connections, details of which will be approved as part of operational works. The proposal therefore complies with specific outcome S3 of the Infrastructure Works Code and S1.4 of the Reconfiguration Code.

Reverse amenity

Odour

The site is mapped under the Protection of Poultry Industry overlay and specifically within the Poultry Buffer, which typically extends 500m from the centre of a poultry farm. Overall outcomes of the Protection of Poultry Industry overlay code seek to protect the ongoing operation of the poultry industry from uses that are sensitive to its operations and to ensure uses and other development are sited and designed to ameliorate odour impacts generated by the poultry industry.

The poultry farm located on the development site itself is no longer operational; however, there is one poultry farm located to the south at 48 Double Jump Rd which is within 500m of the development site and has the potential to cause reverse amenity impacts. It is noted that the poultry farm is owned by another housing developer, Fiteni Homes, however officers understand that the farm will continue to

operate for a number of years before it is ultimately redeveloped and as such it is still considered necessary to ensure the provisions of the overlay are considered.

In order to demonstrate compliance with the overall outcomes of the code, the applicant submitted an air quality report, prepared by Pacific Environment Ltd. This was subsequently supported by further survey work in 2015-16 to provide a more robust assessment and consider a worst case scenario. The report has been reviewed by Council's Health & Environment Team and also independently peer reviewed on behalf of Council by a suitably qualified expert.

It was concluded that the conservative assumptions adopted for the odour emissions together with the provision of a vegetated separation buffer (a minimum of 20m) is likely to ensure future residents experience an appropriate level of odour amenity and the development of the land for residential purposes is not expected to restrict lawful operation of the poultry farm at 48 Double Jump Road.

It is noted that while the lots within Stage 7 will be buffered by the 40m ecological corridor, lots within Stage 8 would directly adjoin the southern boundary and be impacted by the poultry odour. Consequently a condition of the permit will require that development within Stage 8 does not commence until the poultry activities at 48 Double Jump Road have ceased.

Subject to this condition, the proposal has demonstrated compliance with the overall outcomes of the Protection of the Poultry Industry Overlay Code.

Noise

Council officers raised concern with the proximity of lots along the northern boundary, which would directly interface Victoria Point Baptist Church and which would have the potential for reverse amenity impacts. The applicant submitted a noise impact assessment to address these concerns – recommendations within the report will be recommended as conditions including an acoustic fence to be constructed along the northern boundary of the affected lots, to protect the amenity of future residents and to ensure the development does not prejudice the ongoing operation of the Church.

Officers do not recommend that all recommendations in the acoustic report are required, which includes recommendations that there be no windows on the northern elevations of future houses on the affected lots and that the outdoor recreation area/patio be provided along the side boundary. Council's Health and Environment Officers advised that the provision of an acoustic fence will be sufficient to ameliorate the noise emissions from the Church and that combined with building attenuation will ensure sufficient measures have been taken to address any reverse amenity impacts of the proposal.

Dams

The subject site comprises three agricultural dams that are proposed to be filled by the development. One of these (the dam located adjoining the northern boundary at the centre of the proposal site), is identified as being within a natural drainage line.

The codes of the Redlands Planning Scheme are mostly silent on private waterbodies, except in the South East Thornlands and Kinross Road structure plans where more specific guidance is given. The Redlands Planning Scheme policies provide some guidance in relation to Infrastructure Works, Ecological Impact Assessment and Waterway, Wetlands and Moreton Bay. The infrastructure works policy stipulates that all dams be removed and the ecological impacts assessment policy requires that dams are part of any assessment. The Waterways policy is a little clearer; it stipulates that where a dam is located within a waterway buffer Council's

position is that it should be retained and if it is located within a natural drainage line the preference is that it be retained, albeit in a modified form.

In this instance the developer has proposed to fill all dams and this is considered appropriate to achieve the efficient development of the land. With regard to the dam located within a natural drainage line the applicant has proposed to modify the dam into a bio basin for the treatment of stormwater. Officers do not consider the retention of the dam is necessary. This dam is located in a proposed corridor and although it is not wide enough to retain the dam completely, a modified dam could be retained in this location if it was considered necessary. The stormwater assessment for the site would need to be updated to reflect this change however.

As discussed the codes in the Redlands Planning Scheme do not require that the existing dams are retained. The policies supporting the scheme identify a 'preference' that one is retained (within the natural drainage line), however the status of requirements within the planning scheme policies is akin to a probable solution and so this preference is not mandatory. The SEQRP however requires that the land is developed efficiently and as such officers do not consider it necessary to require retention.

Infrastructure Charges

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

This charge has been calculated as follows in accordance with Council's [Adopted Infrastructure Charges Resolution \(No. 2.3\) August 2016](#).

Total Charge: \$7,472,743.70

Stage 1 - 42 lots + balance

Notice #001796

Residential Component	
43 X 3 bedroom residential dwellings X \$28,335.90	\$1,218,443.70
Demand Credit	
2 X 3 bedroom residential dwelling X \$23,235.40 (no sewer)	\$46,470.80
Total Council Charge:	\$1,171,972.90

Stage 2 - 46 lots + balance

Notice #001797

Residential Component	
47 X 3 bedroom residential dwellings X \$28,335.90	\$1,331,787.30
Demand Credit	
1 X 3 bedroom residential dwelling X \$28,335.90	\$28,335.90
Total Council Charge:	\$1,303,451.40

Stage 3 - 33 lots + balance

Notice #001798

Residential Component	
34 X 3 bedroom residential dwellings X \$28,335.90	\$963,420.60
Demand Credit	
2 X 3 bedroom residential dwelling X \$23,235.40 (no sewer)	\$46,470.80
Total Council Charge:	\$916,949.80

Stage 4 - 33 lots + balance**Notice #001799**

Residential Component	
34 X 3 bedroom residential dwellings X \$28,335.90	\$963,420.60
Demand Credit	
1 X 3 bedroom residential dwelling X \$28,335.90	\$28,335.90
Total Council Charge:	\$935,084.70

Stage 5 - 36 lots + balance**Notice #001800**

Residential Component	
37 X 3 bedroom residential dwellings X \$28,335.90	\$1,048,428.30
Demand Credit	
1 X 3 bedroom residential dwelling X \$28,335.90	\$28,335.90
Total Council Charge:	\$1,020,092.40

Stage 6 - 37 lots + balance**Notice #001801**

Residential Component	
38 X 3 bedroom residential dwellings X \$28,335.90	\$1,076,764.20
Demand Credit	
1 X 3 bedroom residential dwelling X \$28,335.90	\$28,335.90
Total Council Charge:	\$1,048,428.30

Stage 7 – 13 lots**Notice #001802**

Residential Component	
13 X 3 bedroom residential dwellings X \$28,335.90	\$368,366.70
Demand Credit	
1 X 3 bedroom residential dwelling X \$28,335.90	\$28,335.90
Total Council Charge:	\$340,030.80

Stage 8 – 27 lots**Notice #001803**

Residential Component	
27 X 3 bedroom residential dwellings X \$28,335.90	\$765,069.30
Demand Credit	
1 X 3 bedroom residential dwelling X \$28,335.90	\$28,335.90
Total Council Charge:	\$736,733.40

It should be noted that these calculations are not based on the proposed development of 270 lots, but on a scenario whereby the development achieves no more than 267 lots as proposed by the attached draft conditions. Changes to the development approval will affect the charges and these contributions will need to be recalculated.

INFRASTRUCTURE AGREEMENT

The Infrastructure Agreement for the development is contained in **Attachment 11**.

- Financial contributions to an upgrade of the Victoria Point Wastewater Treatment Plan - \$1,348 per lot (total of \$360,015 for this application);
- Works and land contributions for upgrades to the reticulated sewer network, that not only services the subject site but will also facilitate the ultimate closure of a pump station (wastewater pump station 118);
- Works contribution being the construction of a fauna underpass;
- An agreement that this infrastructure will not be subject to offsets; and
- An agreement that the applicant will not seek to convert the infrastructure to trunk infrastructure for the purpose of seeking an offset or refund in the future.

In relation to parks, community facilities, roads, water and footpaths/cycleways the proposed development will deliver the infrastructure required to service the site or provide appropriate contributions to support planned upgrades.

Parks

With regard to district sports parks and city wide recreation parks Council's City Infrastructure group has confirmed that the proposal does not initiate the need for additional facilities; the capped charges will contribute to the facilities that are already planned. The wider structure plan area will need to provide parks however this is not required on the subject site and will be delivered as part of the future development of the structure plan area.

Community Facilities

Council's Social Planner likewise confirmed that the development area does not trigger the need for any additional community facilities and that the capped charges paid for each development will contribute appropriately to Council's current plans/provision.

Roads

Finally, with regard to local roads, the assessment contained under the SEQRP 'infrastructure' heading of this report identifies that some additional upgrades will be required to Double Jump Road, however the infrastructure charges to be paid by each development will cover the developers' portion of this cost.

OFFSETS

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

REFUNDS

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

State Referral Agencies

The application triggered State referral for:

1. Regional Plan
2. Development impact on State transport infrastructure

The State provided its response on 15 December 2016, with subsequent updates to account for the minor changes to the application, requiring conditions be applied to any approval issued by Council. These included alterations to Clay Gully Road at its eastern end to incorporate a left turn slip lane at the intersection with Cleveland-Redland Bay Road (and other associated works) and design requirements for the

main access into the site to ensure it could accommodate a single unit rigid bus of 12.5m in length.

In addition, the State set out advice to Council highlighting that local and regional development areas under the 2009 regional plan are no longer considered development areas for the purposes of the Planning Regulation 2017, and as such it is Council's responsibility to ensure the land is developed efficiently and at a density that will enable the dwelling targets under the new regional plan to be met.

The final concurrence agency response, dated 22 November 2017, is attached to this report (**Attachment 9**). It must be appended to a Decision Notice should Council approve the application.

Public Consultation

The proposed development is impact assessable and required public notification. The application was publicly notified for 16 business days from 19 November 2015 to 11 December 2015. A notice of compliance for public notification was received on 14 December 2015.

In addition to this, and following their submission of further structure planning material, the applicant opted to conduct additional community consultation in December 2016. Submissions relating to this non-mandatory consultation are not properly made submission as defined under SPA, but the matters raised in those submissions are addressed in this report.

Submissions

There were 337 properly made submissions received during the notification period. A further 16 submissions were received that were not properly made but which were accepted under s305(3) of the *Sustainable Planning Act 2009*. The matters raised within these submissions are outlined below.

1.	<p>Issues - Traffic</p> <ul style="list-style-type: none"> - Brendan Way is 6m which is tight – concerned about passing vehicles including refuse and high volume of traffic volumes. - Rat race through development to avoid traffic lights on Cleveland Redland Bay Road. - Concern over the new main road exiting directly opposite their residential property. Impacts in terms of light and noise and safety. - The intersection at Clay Gully - Cleveland Redland needs improvement. - Footpath details are not indicated. - No major collector roads shown on plan from Double Jump to the north of Bunker – should be 18m. <p>Officer's Comment</p> <ul style="list-style-type: none"> - Conditions will require Brendan Way to be upgraded to a collector Street standard to accommodate the increased traffic volumes. - The road layout has been changed so that the development will not become a 'rat run' to avoid traffic lights. - Impacts from the location of the access (headlights/noise) to existing properties opposite in Clay Gully Road can be minimised by offsetting the alignment so that it is not perpendicular to Clay Gully Road. Impacts cannot be avoided completely however and are a reasonable consequence of urban development. - Upgrading of the intersection at Benfer Rd/Cleveland Redland Bay Road have been conditioned by the state. - The provision of appropriate footpaths will be conditioned. - The revised layout provides a 25m wide collector road through the site which will ultimately connect to Double Jump Road.
2.	<p>Issue – Retaining walls</p> <p>Concern expressed with retaining walls being greater than 1.5m in height – requests they are limited to 1m in height.</p>

	<p>Officer's Comment See Earthworks section of report for discussion.</p>
3.	<p>Issue – Lot sizes Lot sizes are considered to be too small and non-complaint with the Rural Non-Urban zone. The proposed 800sqm blocks can be further subdivided, will these be zoned differently to allow no further development</p> <p>Officer's Comment See Issues section of report for discussion on lot sizes and the principle of development in this area. The land zoning designation will change with the adoption of the draft City Plan. A condition has been recommended to ensure that proposed lots 156-166 (adjoining Hanlin Place) maintain a minimum lot size of 774m². Any proposals to subdivide these lots in the future would conflict with this approval. This means an applicant would need to lodge a request to Council to change to this ROL and would need to demonstrate that the change meets the minor change test. Unless the impacts of the development on the adjoining residents has changed, i.e. where the zoning of adjoining land has changed, it is not likely that such an amendment would be approved.</p>
4.	<p>Issue – Odour Odour issues/ chicken farm - doesn't meet the requirements of the Protection of the Poultry Industry Poultry overlay. The chicken farm is still operating and there needs to be 500m buffer for health reasons</p> <p>Officer's Comment See Reverse amenity section of report for discussion.</p>
5.	<p>Issue – Biodiversity The development doesn't meet overall outcomes of Habitat Protection Overlay code. The proposed fauna movement corridor proposed is far too small in width and the RPS requires a 100m corridor. Mature trees to be cleared.</p> <p>Officer's Comment See Issues and Koala section of report for discussion on the ecological corridor and existing trees.</p>
6.	<p>Issue – Stormwater Clarification requested on whether the dam will used for stormwater. Clarification requested on whether stormwater been addressed adequately - concerns about water catchment rising with increased overland flow and additional stormwater being added into catchment.</p> <p>Officer's Comment See Issues section of report for discussion on Stormwater. The dams are to be filled, with one being modified to incorporate a stormwater basin. The entire north-south corridor is a drainage channel for the development.</p>
7.	<p>Issue – Park Open space proposed doesn't meet the specific outcomes of the RPS: it isn't large enough for replacement planting and compromised with stormwater areas. There are limited park amenities proposed.</p> <p>Officer's Comment See Issues section of report for discussion on Open space.</p>
8.	<p>Issue – Principal of use Proposal is premature and piecemeal, compromises the city to create functional, efficient and attractive communities. Contrary to preferred settlement pattern framework, identifies the site for rural and habitat corridor Contrary to overall outcomes for zone.</p> <p>Officer's Comment See Issues section of report for discussion on land use and conflict with the planning scheme/SEQRP.</p>

Deemed Approval

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

STRATEGIC IMPLICATIONS

Legislative Requirements

In accordance with the *Sustainable Planning Act 2009* this development application has been assessed against the Redlands Planning Scheme V7.1 and other relevant planning instruments. The decision was due by 8 September 2017 and as such the application is in 'deemed refusal'. This means the applicant may, at any time, file an appeal with the Planning and Environment Court seeking that the Court decide the matter. To date the applicant has not exercised this right.

Risk Management

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

Financial

If approved, Council will collect infrastructure contributions in accordance with the State Planning Regulatory Provisions (adopted charges) and Council's Adopted Infrastructure Charges Resolution. The applicant has also entered into an Infrastructure Agreement with Council to provide financial contributions to cover additional upgrade costs to the Victoria Point Wastewater Treatment Plant and to provide a fauna underpass within their development. The Infrastructure Agreement stipulates that the applicant will not seek any offsets or credits in lieu of these contributions.

If the development is refused an appeal will very likely be lodged. In this event the Infrastructure Agreement will become obsolete and the applicant may choose to take a different position in negotiating its content. Any Court proceedings will likely result in legal costs.

People

Not applicable. There are no implications for staff.

Environmental

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

Social

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

Alignment with Council's Policy and Plans

The assessment and officer's recommendation conflict with the Redlands Planning Scheme, as described within the "issues" section of this report.

CONSULTATION

The assessment officer has consulted with other internal assessment teams where appropriate. Advice has been received from relevant officers and forms part of the assessment of the application. Officers have also consulted with the relevant asset owners and asset managers, specifically City Spaces, City Infrastructure, Economic Sustainability & Major Projects and Redland Water & Waste. Officers also sought the

assistance of independent experts in ecology, traffic and odour matters to assist with the assessment.

OPTIONS

The development application has been assessed against the Redlands Planning Scheme and relevant State planning instruments. The development is considered to conflict with those instruments however sufficient grounds have been identified to justify approval despite the conflict. It is therefore recommended that the application be approved subject to conditions.

Council's options are:

1. That Council resolves to adopt the officer's recommendation to approve the application subject to conditions.
2. That Council resolves to approve the application, without conditions or subject to different or amended conditions.
3. That Council resolves to refuse the application.

OFFICER'S RECOMMENDATION

That Council resolves to recommend a Development Permit approval be issued subject to conditions for the ROL for 3 into 267 lots at 21-29 & 31 Clay Gully Road and 39 Brendan Way, Victoria Point (Lot 4 on RP57455, Lot 1 on RP95513 and 1 on RP72635).

ASSESSMENT MANAGER CONDITIONS	TIMING
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.	
Approved Plans and Documents	
2. Undertake the development in accordance with the approved plans and documents referred to in Table 1, subject to the conditions of this approval and any notations by Council on the plans.	Prior to Council approval of the Survey Plan. All stages

Plan/Document Title	Reference Number	Prepared By	Plan/Doc. Date
ROL Plan Preliminary (for Information only)	ASB32-SK01, Rev L	Place Design Group	Received 30/01/2018
Infrastructure Report	Version I	Sheey & Partners Pty Ltd	10/11/2017
Road Hierarchy Layout Plan	7968-A Version 8	Sheey & Partners Consulting Engineers	Nov-17
Services Layout Plans	7968-C-D-F-G and H	Water Technology	Nov-17
Site Based Stormwater Management Plan and Flood Assessment	3956-02-R01-V01_SMP.docx	Water Technology	09/11/2017
External Sewer Layout	7968-AD Version C	Sheey & Partners Pty Ltd	Aug-16
External Sewer Long Section Sheet 1 of 2	7968-AE Version 3	Sheey & Partners Pty Ltd	Aug-16
External Sewer Long Section Sheet 2 of 2	7968-AF Version 3	Sheey & Partners Pty Ltd	Aug-16
Earthworks Layout Plans	7968-J-Rev.5 7968-K Rev.5 7968-L Rev.4 7968-M Rev.4	Sheey & Partners Pty Ltd	Nov-17

	7968-N Rev.4 7968-P Rev.5 7968-Q Rev.4		
Reverse Amenity Issue Response	RB/16-720.R01.Rev2	Acoustics RB Pty Ltd	Nov-17
Ausbuid Reverse Amenity Assessment	Job ID: 08784	Pacific Environment Ltd	27 Nov 14
Landscape Master Plan & Design Intent	Project No. 1014025 Rev. H	Place Design Group	10/11/2017
Water Services Strategy Layout Plan	Recommended Water Services Strategy Layout Plan	H2ONE	June 2017
Double Jump Road Indicative Structure Plan – Strategic Bushfire Hazard Assessment and Management Plan	Project No: 83503910	MWH/Stantec	June 2017

Table 1: Approved Plans and Documents

Compliance Assessment		
3. Submit to Council and receive a Compliance Certificate for the document referred to in Table 2, which is to be generally in accordance with Preliminary ROL drawing ASB32-SK01, Rev L (attached to this approval for information purposes only), the approved Strategic Bushfire Hazard Assessment and Management Plan and which incorporates the following: <ul style="list-style-type: none"> • A minimum 40m wide ecological corridor; • Updating of the staging and the layout to accommodate the 40m wide ecological corridor; • An esplanade/perimeter road along the full extent of the northern boundary of the corridor; • Building setbacks for properties along esplanade roads; • Truncations to all corner lots that are adjoined to both frontages by a road and/or a footpath; • All truncations are to be a minimum 6m x 3 chord; • Details of the width of the road connection between proposed lots 150 and 151, noting that it must achieve the cross section required by a Residential Access Street in the standard drawings of the Redlands Planning Scheme; and • The removal of the proposed cul-de-sac to Barcrest Drive and the provision of a full vehicular connection. Rename the plan ROL Plan ASB32-SK01 Revision M. The total number of lots is not to exceed 267. The approved amended plan will form part of this approval. <i>Note: A site based bushfire hazard assessment, which demonstrates compliance with the approved Strategic Bushfire Hazard Assessment and Management Plan, to support the revised layout is recommended.</i>		Prior to the application being lodged for Operational Works approval.
Document or Works Item	Compliance Assessor	Assessment Criteria
ROL Plan	Redland City Council	Reconfiguration Code Excavation and Fill Code Infrastructure Works Code Stormwater Management Code Habitat Protection Overlay

Table 2: Compliance Assessment

4. Comply with ROL Plan reference ASB32-SK01 Revision M.	Prior to Council approval of the Survey Plan for each stage.
5. Proposed lots 156-166 must maintain a minimum lot size of 774m ² .	Prior to Council approval of

<i>Note: Future purchasers should be advised of this limitation</i>	the Survey Plan for each stage and ongoing
6. Submit to Council a Survey Plan for approval, in accordance with the approved plans, following compliance with all relevant conditions and requirements of this approval	Prior to expiry of the relevant period for the approved development.
7. Complete all operational works associated with this development approval, including work required by any of the conditions included in this development approval. Such operational work must be carried out generally in accordance with the approved Drawings and Documents or, if requiring a further approval from Council, in accordance with the relevant further approval(s).	Prior to Council approval of the Survey Plan for each stage and ongoing.
Infrastructure Agreement	
8. Comply with the Infrastructure Agreement for the development.	Prior to Council approval of the Survey Plan for each stage and ongoing.
Existing Structures	
9. Demolish, relocate/remove or obtain the relevant approvals for all existing structures on site, including all slabs and footings, in accordance with the approved plan(s) and cap all services prior to demolition commencing. This does not apply to the existing dwelling (and existing secondary dwelling) located on proposed lots 1004 and 1005.	Prior to Council approval of the Survey Plan for each stage for the affected stages
10. Remove any existing fences and/or incidental works that straddle the new boundaries, or alter to realign with the new property boundaries or to be wholly contained within one of the new properties.	Prior to Council approval of the Survey Plan for each stage.
Utility Services	
11. Relocate any services (e.g. water, sewer, electricity, telecommunications and roofwater) that are not wholly located within the lots that are being serviced. This does not apply to the existing dwelling (and existing secondary dwelling) located on proposed lots 1004 and 1005.	Prior to Council approval of the Survey Plan for each stage.
12. Pay the cost of any alterations to existing public utility mains, services or installations due to building and works in relation to the proposed development, or any works required by conditions of this approval. Any cost incurred by Council must be paid in accordance with the terms of any cost estimate provided to perform the works.	At the time the works occur, or prior to Council approval of the Survey Plan, whichever is the sooner, for each stage.
13. Design and install underground electricity and telecommunication conduits to service each of the new lots in accordance with the requirements of the relevant service providers and the Redlands Planning Scheme Infrastructure Works code and Planning Scheme Policy 9 – Infrastructure Works. Provide Council with written confirmation of the service provider agreements to the supply of electricity and telecommunication services. This does not apply to the existing dwelling (and existing secondary dwelling) located on proposed lots 1004 and 1005.	Prior to Council approval of the Survey Plan for each stage.
Land Dedication and Design	
14. Dedicate land to the State with Council as trustee in accordance with the approved ROL plan for the following purposes: a) Utilities; and b) Road. As part of the relevant stage and required for the development. Transfer of land is to be undertaken at no cost to Council.	Prior to Council approval of the Survey Plan for the relevant stage.
15. Transfer the land to Council in fee simple (on trust) in accordance with the approved ROL plan for the following purposes: a) Park/open space; b) Ecological corridor; and c) Stormwater drainage. Transfer of land is to be undertaken at no cost to Council.	Prior to Council approval of the Survey Plan for each stage.
16. Grant easements for the following and submit the relevant easement documentation to Council for approval: a) Access purposes, in favour of proposed Lot 1005, over part of proposed Lot 1004, in accordance with the approved ROL Plan;	As part of the request for assessment of the Survey Plan for each stage.

<p>b) Access, construction and maintenance of utility services over proposed Lots, where necessary, and identified on approved operational work detailed design drawings, in favour of Redland City Council, Redland Water and other utility operators and their agents;</p> <p>c) Turning areas for refuse service vehicle turn-around, where such areas are located over private property, or subsequent stages, in favour Of Redland City Council and its agents;</p> <p>Once approved by Council, register the easement on the property title.</p>	
Split Valuation	
<p>17. Pay a contribution to Council for the purposes of paying the State Government Split Valuation Fees. The current value of the contribution is \$36.50 per allotment (2017/2018 Financial Year). The amount of contribution must be paid at the rate applicable at the time of payment. A Split Valuation Fee is required for each allotment contained on the Plan(s) of Survey, including balance lots.</p>	<p>Prior to Council approval of the Survey Plan for each stage.</p>
Access and Roadworks	
<p>18. Submit to Council for approval, engineering plans and details showing road widening on Brendan Way along the frontage of the development according to the following:</p> <ol style="list-style-type: none"> Minimum 7.0m wide roadway (2 x 3.5m); Minimum 1.5m wide concrete footpath; Verge profile according to standard drawing R-RSC-8; Reinstatement of concrete kerb and channel where required; and Adjustment and relocations necessary to public utility services resulting from these works. 	<p>As part of operational works application for stage 1.</p>
<p>19. Design all roads in accordance with the provisions of Complete Streets, the Redlands Planning Scheme Infrastructure Works Code, Planning Scheme Policy 9 – Infrastructure Works and Schedule 6 – Movement Network and Road Design, unless otherwise stated as part of a specific condition of this approval.</p>	<p>Prior to Council approval of the Survey Plan</p>
<p>20. Provide traffic calming consistent with the provisions of Complete Streets, the Redlands Planning Scheme Infrastructure Works Code, Planning Scheme Policy 9 – Infrastructure Works and Schedule 6 – Movement Network and Road Design. Traffic calming design must not affect the intended drainage function of the road.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<p>21. Construct footpaths for the development as follows:</p> <ul style="list-style-type: none"> Minimum 2.0m wide concrete shared use footpaths along all roads designated as Residential Collector Street on the approved <i>Road Hierarchy Layout Plan</i>, reference 7968-A version 8 dated Nov'17 prepared by Sheehy & Partners consulting engineers; Minimum 2.0m wide concrete pedestrian footpath for the full length frontage of Clay Gully Road and connection path to Barcrest Drive; Minimum 1.5m wide concrete pedestrian path within the proposed connection adjoining the eastern boundary of proposed lots 1001 and 1002; and Minimum 1.5m wide concrete pedestrian path on one side of the streets shown on concept drawing "Pedestrian Movement Plan" ref.: 05, revision F, prepared by Place Design Group. 	<p>Prior to Council approval of the Survey Plan for each stage.</p>
<p>22. Remove all redundant vehicle crossovers and reinstate kerb and channel, road pavement, service and footpaths as specified in accordance with the standards in the Redlands Planning Scheme Policy 9 – Infrastructure Works.</p>	<p>Prior to Council approval of the Survey Plan.</p>
<p>23. Submit to Council, <u>and gain approval for</u>, a road naming plan, in accordance with Council's road naming guidelines, detailing specific road names and designations for all existing and proposed new public roads within the site. Use original road names on all new roads to avoid duplication of any existing road names in the City.</p>	<p>Prior to preparing your Survey Plan for each stage.</p>
<p>24. Provide roads in accordance with the following standards which are</p>	<p>Prior to Council approval</p>

<p>in accordance with the Redlands Planning Scheme, Standard drawing R-RSC-15, "Road Types and Minimum Road Widths", the approved ROL plan and Road Hierarchy Layout Plan:</p> <ol style="list-style-type: none"> a) For roads identified as Residential Collector Street – Bus Route": <ol style="list-style-type: none"> i. Minimum 25 metre wide road reserve; ii. Minimum 14 metre wide carriageway (lip to lip); and iii. 5.5 metre wide verge; b) For roads identified as "Residential Access Place and Access Street": <ol style="list-style-type: none"> i. Minimum 15 metre wide road reserve; ii. Minimum 6 metre wide carriageway (lip to lip); and iii. Minimum 2 metre wide verge, where the verge adjoins a proposed lot which is to be dedicated as stormwater or open space (12.5m wide road reserve); and iv. Minimum 4.5 metre verge, where iii) does not apply. 	<p>of the Survey Plan.</p>
Stormwater Management	
<p>25. Convey roof water and surface water in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management to:</p> <ul style="list-style-type: none"> • To a lawful point of discharge being the proposed detention basin, proposed bio basin and proposed stormwater management areas as shown on the approved ROL Plan. 	<p>Prior to on maintenance or Council approval of the Survey Plan, whichever is the sooner. Ongoing condition.</p>
<p>26. Manage stormwater discharge from the site in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management, so as to not cause an actionable nuisance to adjoining properties.</p>	<p>Prior to on maintenance or Council approval of the Survey Plan, whichever is the sooner. Ongoing condition.</p>
<p>27. Submit to Council, and receive Operational Works approval for, a stormwater assessment that is generally in accordance with the approved Site Based Stormwater Management Plan, version V01 prepared by Water Technology dated November 2017, concept design of "Services Layout Plan" set of drawings (7968-C-D-F-G and H) and addresses both quality and quantity in accordance with the Redlands Planning Scheme Policy 9 Chapter 6 – Stormwater Management, and the following:</p> <ul style="list-style-type: none"> • Design of allotment drainage. • Detailed drawings of the proposed stormwater quality treatment systems and any associated works. The drawings must include longitudinal and cross sections as well as details of treatment media and any associated vegetation. • An electronic copy of the MUSIC model. • A maintenance plan including estimates of asset and maintenance costs (for stormwater quality treatment only). 	<p>As part of the application for Operational Works or prior to Council approval of the Survey Plan, whichever is the sooner.</p>
Waste Management	
<p>28. Provide a plan detailing the location of bin service bays for the placement of waste and recycling bins awaiting collection only (not for storage of bins) to serve lots that take access via a shared driveway and do not have a road frontage.</p> <p>Each bin bay will be required to be constructed of stamped concrete in accordance with the following:</p> <ul style="list-style-type: none"> • 2m long x 1m wide on the road frontage adjacent to each lot. • Located so that the length is parallel to the road edge without impeding any swale drainage or existing/proposed driveway. • Marked 'bin service bay' in letters of 200mm height. 	<p>As part of the application for Operational Works or prior to Council approval of the Survey Plan for each stage, whichever is the sooner.</p>
Water and Wastewater	
<p>29. Connect all lots to the existing reticulated sewerage and reticulated water systems, generally in accordance with the concept design of "Services Layout Plan" set of drawings (7968-C-D-F-G and H). Submit to Council, and obtain Operational Works for the design of the reticulated sewerage and water systems associated with the</p>	<p>Prior to Council approval of the Survey Plan.</p>

reconfiguration. The plan must show the proposed works are in accordance with the SEQ Water Supply and Sewerage Design and Construction Code and the Redlands Planning Scheme Policy 9 – Infrastructure Works.	
30. Construct external sewerage works in accordance with the following drawings: “External Sewer Layout”, Ref: 7968-AD, version C, and “External Sewer Long Section, Sheet 1 and 2”, Ref.: 7968-AE and AF, version 3, dated 26 August 2016. Submit to Council for approval an application for Operational Works showing the works are in accordance with the SEQ Water Supply and Sewerage Design and Construction Code and the Redlands Planning Scheme Policy 9 – Infrastructure Works.	Prior to Council approval of the Survey Plan for Stage 3.
31. Construct external water supply works, including a 150mm water main and hydrants, valves and fittings between nodes J1058 and J956 in accordance with drawing “Recommended Water Service Strategy Layout Plan”, prepared by H2ONE, dated 6 June 2017. Submit to Council for approval an application for Operational Works showing the works are in accordance with the SEQ Water Supply and Sewerage Design and Construction Code and the Redlands Planning Scheme Policy 9 – Infrastructure Works.	Prior to Council approval of the Survey Plan.
32. Remove any redundant sewerage connections and sewerage systems within the site or servicing the development and provide documentary evidence to Council or its delegate that this has occurred.	Prior to Council approval of the Survey Plan for each stage.
Excavation and Fill	
33. Apply to Council and obtain Operational Works approval for earthworks associated with the reconfiguration generally in accordance with the concept design of “Earthworks Layout Plan” set of drawings (7968-J-K-L-M-N-P and Q) and the following condition of this approval.	As part of the application for Operational Works for each stage.
34. Design and construct all retaining structures in accordance with the Australian Standard 4678-2002 (as amended) <i>Earth-retaining Structures</i> , and the following: <ul style="list-style-type: none"> • All retaining structures, including footings, must be located wholly within the property boundary where the works are occurring, with drainage discharging to the road drainage system; • All retaining structures must be constructed of high quality, durable materials; • All retaining structures must be designed to a 60 year design life; • Retaining structures are to be limited to 1.5m in height unless otherwise approved as part of Operational Works approval; • For all tiered retaining structures, the tiered part of the structure must be contained within the property boundary on the low side of the wall; • All retaining structures with a total height in excess of 1.0m must be designed and certified by a Registered Professional Engineer Queensland (RPEQ); and • All retaining walls facing publically owned land (including road reserve and parkland) must not exceed a total height of 1.5m and must not be constructed of timber. <p><i>Note: For the purpose of this condition the total height of a retaining structure is taken to be the total height of all parts of the structure, including all tiered parts but excluding the boundary fence.</i></p>	Prior to site works commencing and ongoing.
Sediment and Erosion Control	
35. Install erosion and sediment control measures to minimise the export of silts, sediment, soils and associated pollutants from the site. Design, install and maintain the above measures in accordance with the Redlands Planning Scheme Policy 9 – Infrastructure Works, Chapter 4 and the Institute of Engineers’ Erosion and Sediment Control Guidelines.	Prior to commencement of civil works, earthworks and construction phases of the development.

<u>Dust Control</u>	
36. Implement dust control measures at each phase of site development and operation in accordance with IECA (2008) Best Practice Erosion and Sediment Control.	During any site works and construction phase.
<u>Landscaping Works</u>	
37. Submit a Landscape Plan, prepared in accordance with the Redlands Planning Scheme Policy 9 – Infrastructure Works Chapters 2, 10 and 11, to Council for Operational Works approval. Include the following items in addition to the requirements of the Policy: <ul style="list-style-type: none"> a) Designs that are generally in accordance with Landscape Master Plan & Design Intent by Place Design Group. b) Details of street tree planting in accordance with the Landscape Code with species selected from Schedule 9 of the Redlands Planning Scheme, unless otherwise approved as part of the Operational Works approval. c) Details of all rehabilitation planting to the open space area. d) Details of any proposed entry statements. e) Details of water bubbler/fountain, in accordance with the RPS Part 7 Division 11 – Reconfiguration, P1.4 and must be consistent with the Outdoor Equipment and Public Facilities in Section 9.10.7 of Planning Scheme Policy 9, Chapter 10. f) Details of bollards provided along all roads that adjoin parkland, plus metal slide rail/folding bollards in the vicinity of park open space/stormwater facility areas to allow access for maintenance vehicles. 	As part of the application for Operational Works.
38. Submit to Council for Operational Works approval a Parks Maintenance Plan (PMP) identifying how all landscaping will be maintained for the entire On-Maintenance period (minimum 12 months). The Plan must be prepared in accordance with the following work sections in the AUS-SPEC Urban and Open Spaces package: <ul style="list-style-type: none"> • Classification No. TG401 – Guide to Parks and Recreation Areas Maintenance Management Model and Documentation; • Classification No. TG402 – Guide to Adapting Asset Delivery Documentation to Parks and Recreation Areas Maintenance; and • Classification No. 0164 – Parks and Recreation Area Management Plan. 	As part of the application for Operational Works.
39. Remove all weed species, as identified in Part B of Council's Pest Management Plan 2012-2016.	Prior to on maintenance or Council approval of the Survey Plan, whichever is the sooner.
<u>Survey Control Information</u>	
40. The survey plan must include connections to at least two separate corners from two control marks with a valid DNRM Order or Horizontal Positional Uncertainty. These marks must be shown on the face of the Survey Plan within the Reference Mark or Permanent Survey Mark Tables. The mark number and coordinates should be listed in the cover letter.	As part of the request for assessment of the Survey Plan for each stage.
41. Supply a completed Form 6 (Permanent Survey Mark Sketch and Data Sheet) with the Survey Plan for any new Permanent Survey Marks (PSMs) placed. Where new PSMs are placed the requirements of the Redlands Planning Scheme Part 11 Policy 9 (with particular reference to 9.2.7.2 and 9.2.7.4) must be met. Ensure the Form 6 includes: <ul style="list-style-type: none"> • the mark's AHD Reduced Level (RL); • the vertical origin mark number; • the RL of the vertical origin mark adopted; • the mark's MGA coordinates (easting and northing); • the horizontal and vertical accuracy to which the mark has been fixed; and • the method by which the mark has been fixed in height and position. 	As part of the request for assessment of the Survey Plan for each stage.

42. Comply with the requirements of the <i>Survey and Mapping Infrastructure Act 2003</i> .	As part of the request for assessment of the Survey Plan for each stage.
Environmental Management	
43. Submit to Council, and receive Operational Work approval for a Vegetation Management Plan which includes the following: <ul style="list-style-type: none"> • Details of rehabilitation and revegetation works – plantings should facilitate fauna movement. • Details of bio-basins/stormwater treatment devices and existing trees/vegetation. Location of devices should avoid significant vegetation where possible; • Details of weed control and maintenance over the site; • Details of mulching/top soil; • Details of tree protection fencing. Fencing is to be in accordance with AS4970-2009 • Location of proposed sewer, water and electricity lines. 	As a part of Operational Works
44. Provide an 40m wide ecological corridor (that will form part of 80m ultimate corridor) in accordance with the approved plans; and receive Operational Works approval for an Ecological Corridor Management Plan (which also incorporates the north/south corridor) and which includes the following: <ul style="list-style-type: none"> • A fully rehabilitated/revegetated habitat corridor, which will ultimately provide: <ol style="list-style-type: none"> a) a comprehensive vertical structure, i.e. a layered habitat comprising tree canopy, and ground cover. b) a denser habitat structure (tree canopy and small tree/shrub layer understory) within the central "core spine" of the corridor, being a minimum of 30m in width in total (15m within the development site itself). c) a floristic palette which is consistent with that described for Regional Ecosystems (as described by Queensland Herbarium Pre-clear regional ecosystem mapping) of the surrounding landscape. • Provide a walking/cycling path within the road verge along the northern boundary, adjacent to the ecological corridor. • Provide plantings that incorporate suitable edge sealing species (e.g. dense foliage and low branches) that are a minimum of 5m in width. 	As a part of Operational Works
45. Submit to Council and receive Operational Works approval for a detailed report on how dam removal will be managed. Include details on: <ul style="list-style-type: none"> • How the dam will be dewatered • Removal of any sediment/unwanted material • How fauna/aquatic animals will be handled • Installation of sediment and erosion controls • Any staging of the removal. <p><i>Note: One of the dams proposed to be removed is partially located on an adjoining property. To ensure full Operational Works approval for the filling can be issued it is recommended that the application be made over both affected lots.</i></p>	As a part of Operational Works
46. Submit to Council and receive Operational Works approval for a revised assessment against the SEQ Koala Conservation SPRP. Include details on: <ul style="list-style-type: none"> • A survey accurate tree plot of all NJKHT to be retained/removed in relation to the approved layout plan. • An adjusted assessment against the priority koala assessable development area under the SEQ Koala Conservation SPRP. • Offset any residual impact of clearing at the rate calculated under the Environmental Offsets Act 2014. 	As a part of Operational Works

<u>Acoustic Requirements</u>	
<p>47. Construct, and maintain, a 2.0m high acoustic barrier as follows:</p> <ul style="list-style-type: none"> Along the northern boundary of lots 24-28 with 2.0m returns on lots 24, 25 and 28. <p>Construct the acoustic barrier to achieve a minimum standard that attains a superficial mass of not less than 12.5kg/m² and total leakage of less than 1% of the total area. Guidance on the design of the barriers is provided in the Redlands Planning Scheme Policy 5 – Environmental Emissions. The barriers must be a fence and constructed in accordance with Diagrams 3/4/5 – of Redlands Planning Scheme Policy 5 - Environmental Emissions.</p>	Prior to Council approval of the Survey Plan for the relevant stage and ongoing.
<p>48. Incorporate acoustic attenuation into the development as specified in section 6.0 a) item 3 and 6.0 b) of Clay Gully Road Estate, Victoria Point, Reverse Amenity Issue response dated 9 November 2017 Ref: RB/16-720.R01.Rev2</p>	Prior to a future use commencing and ongoing.
<u>Air Quality Requirements</u>	
<p>49. Development of stages 8 on the southern portion of the site must not commence (as per guidance in report Ausbuild Reverse Amenity Assessment, ref: Job ID08784, dated 27 Nov 2014) until the poultry farm use has ceased on Lot 1 RP86773.</p>	Prior to Council approval of the Survey Plan for the affected stages.
<p>50. Provide evidence that the poultry use has ceased on Lot 1 on RP86773, this includes:</p> <ul style="list-style-type: none"> Written evidence that the Environmental Authority for the use that is registered with the Department of Agriculture and Fisheries has been surrendered; <p>OR</p> <ul style="list-style-type: none"> A Statutory Declaration from the owner/operator of the poultry farm, confirming that the use has ceased. 	Prior to Council approval of the Survey Plan for stages 8.
<p>51. Implement the air quality recommendations into the development as specified in section 7 of Ausbuild Reverse Amenity Assessment, ref: Job ID08784, dated 27 Nov 2014.</p>	Prior to Council approval of the Survey Plan for Stage 1.
<p>52. Plant a minimum 20 metre wide vegetative buffer on the southern side of the development site in accordance with figure 5.2 of Ausbuild Reverse Amenity Assessment, ref: Job ID08784, dated 27 Nov 2014.</p> <p><i>Note: Guidance on the vegetative buffer can be found in Appendix 2 of Planning Guidelines: Separating Agricultural and Residential Land Uses.</i></p>	Prior to Council approval of the Survey Plan for Stage 1.

ADDITIONAL APPROVALS

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

- Operational Works approval is required for the following works as detailed in the conditions of this approval:
 - Excavation and Fill
 - Erosion and Sediment Control
 - Water and Sewer Reticulation
 - Roads and Path Design
 - Stormwater management
 - Electricity Reticulation and Street Lighting
 - Telecommunication
 - Landscaping
 - Parks Maintenance
 - Vegetation Management
 - Ecological Corridor Management
 - Dam Removal
 - Koala tree removal
- Building works – demolition:
 - Provide evidence to Council that a Demolition Permit has been issued for structures that are required to be removed and/or demolished from the site in association with this development. Referral Agency Assessment through Redland City Council is required to undertake the removal works.

Further approvals, other than a Development Permit are also required for your development. This

includes, but is not limited to, the following:

- Compliance assessment as detailed in condition 3 and table 2 of the conditions.
- Capping of Sewer – for demolition of existing buildings on site.
- Road Opening Permit – for any works proposed within an existing road reserve.

REFERRAL AGENCY CONDITIONS

- Queensland Department of Infrastructure, Local Government and Planning (DILGP)
Refer to the attached correspondence from the DILGP dated 22 November 2017 (DILGP reference SDA-0415-019880).

ASSESSMENT MANAGER ADVICE

- Infrastructure Charges
Infrastructure charges apply to the development in accordance with the State Planning Regulatory Provisions (adopted charges) levied by way of an Infrastructure Charges Notice. The infrastructure charges are contained in the attached Redland City Council Infrastructure Charges Notice.
 - Live Connections
Redland Water is responsible for all live water and wastewater connections. Contact must be made with Redland Water to arrange live works associated with the development. Further information can be obtained from Redland Water on 07 3829 8999.
 - Coastal Processes and Sea Level Rise
Please be aware that development approvals issued by Redland City Council are based upon current lawful planning provisions which do not necessarily respond immediately to new and developing information on coastal processes and sea level rise. Independent advice about this issue should be sought.
 - Hours of Construction
Please be aware that you are required to comply with the Environmental Protection Act in regards to noise standards and hours of construction.
 - Performance Bonding
Security bonds may be required in accordance with the Redlands Planning Scheme Policy 3 Chapter 4 – Security Bonding. Bond amounts are determined as part of an Operational Works approvals and will be required to be paid prior to the pre-start meeting or the development works commencing, whichever is the sooner.
 - Survey and As-constructed Information
Redland City Council will be transitioning to ADAC XML submissions for all asset infrastructure once the Redlands draft City Plan has been adopted. While current Redland Planning Scheme Policies do not mandate its use, RCC encourages the utilisation of this methodology for submissions.
 - Services Installation
It is recommended that where the installation of services and infrastructure will impact on the location of existing vegetation identified for retention, an experienced and qualified arborist that is a member of the Australian Arborist Association or equivalent association, be commissioned to provide impact reports and on site supervision for these works.
 - Fire Ants
Areas within Redland City have been identified as having an infestation of the Red Imported Fire Ant (RIFA). It is recommended that you seek advice from the Department of Agriculture, Fisheries and Forestry (DAFF) RIFA Movement Controls in regards to the movement of extracted or waste soil, retaining soil, turf, pot plants, plant material, baled hay/straw, mulch or green waste/fuel into, within and/or out of the City from a property inside a restricted area. Further information can be obtained from the DAFF website www.daff.qld.gov.au
 - Cultural Heritage
Should any aboriginal, archaeological or historic sites, items or places be identified, located or exposed during the course or construction or operation of the development, the Aboriginal and Cultural Heritage Act 2003 requires all activities to cease. For indigenous cultural heritage, contact the Department of Aboriginal and Torres Strait Islander Partnerships.
 - 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.

- Release of Water Contaminants
Please be aware that prescribed water contaminants must not be released to waters, a roadside gutter, stormwater drainage or into another place so that contaminants could reasonably be expected to move into these areas. Refer to the *Environmental Protection Act 1994* for further information on the release of prescribed water contaminants.
- Dams
Please be aware that dam dewatering is required to comply with the *Environmental Protection Act 1994* and must not be released to waters, a roadside gutter, stormwater drainage or into another place so that contaminants could reasonably be expected to move into these areas. It is recommended that all water discharged from dams should be discharged onto a vegetated or well grassed area and all necessary measures must be taken to comply with the *Environmental Protection Act 1994*.
- Asbestos Management & Removal
Please be aware that where asbestos related materials are to be removed on a development site, appropriate measures must be taken to not cause a public health risk under the *Public Health Act 2005*. A suitably qualified asbestos removalist that holds a current Workplace Health & Safety A or B class asbestos removal licence must be engaged to remove more than 10m² of non-friable asbestos. The removal of friable asbestos must be undertaken by a business that holds a current Class A asbestos removal licence. For further information on asbestos visit the Queensland Government website www.deir.qld.gov.au/asbestos. For licensing enquiries please contact Workplace Health and Safety Queensland on 1300 362 128 or www.worksafe.qld.gov.au/injury-prevention-safety/asbestos.
- Contaminated Land
Council's Red E Map system identifies that the proposed development site may have potential contaminated land. It is recommended that the appropriate investigation and potential testing of the site is undertaken prior to construction work to ensure its suitability for residential development. For further information on contaminated land visit the Queensland Government website: <https://www.qld.gov.au/environment/pollution/management/contaminated-land/>
- Adjoining Vegetation
The concept earthworks plans identify significant earthworks within close proximity of vegetation on adjoining lots. Please note that any damage caused to vegetation on adjoining lots as a result of exercising this development approval may result in civil action.

PROCEDURAL MOTION

Moved by: Cr L Hewlett

That Council resolves that the application is deferred until a Council led Structure Plan is completed for the whole emerging community zone situated between Bunker Road, Double Jump Road, Brendan Way and Clay Gully Road, specifically, the Victoria Point Local Development Area.

CARRIED 8/1

Crs Boglary, Gollè, Hewlett, Edwards, Huges, Talty, Gleeson, Bishop and voted FOR the motion.

Cr Elliott voted AGAINST the motion

Cr Mitchell was absent from the meeting

Cr Williams was not present when the motion was put.

ROL005912 – Attachment 1 – Locality Plan



ROL005912 – Attachment 2 – Site aerial photo



BRENAME
131 Robertson Street
PO Box 419
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Ph: 07 3852 4922
F: 07 3852 4924

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PROJECT
CLAY GULLY ROAD

CLIENT
AUSBUILD

- KEY PLAN NOTES**
- SITE BOUNDARY
 - STAGING BOUNDARY
 - OPEN SPACE/PARK/STORMWATER
 - EXISTING ACCESS EASEMENT
 - PROPOSED ACCESS EASEMENT
 - PROPOSED COVEMENT FOR OPEN SPACE CORRIDOR

NOT FOR CONSTRUCTION

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V	15/06/2016	PRELIMINARY FOR PLAN	CA	15/06/2016
W	15/06/2016	PRELIMINARY FOR PLAN	CA	15/06/2016
X	15/06/2016	PRELIMINARY FOR PLAN	CA	15/06/2016
Y	15/06/2016	PRELIMINARY FOR PLAN	CA	15/06/2016
Z	15/06/2016	PRELIMINARY FOR PLAN	CA	15/06/2016

DRAWING TITLE
ROL PLAN

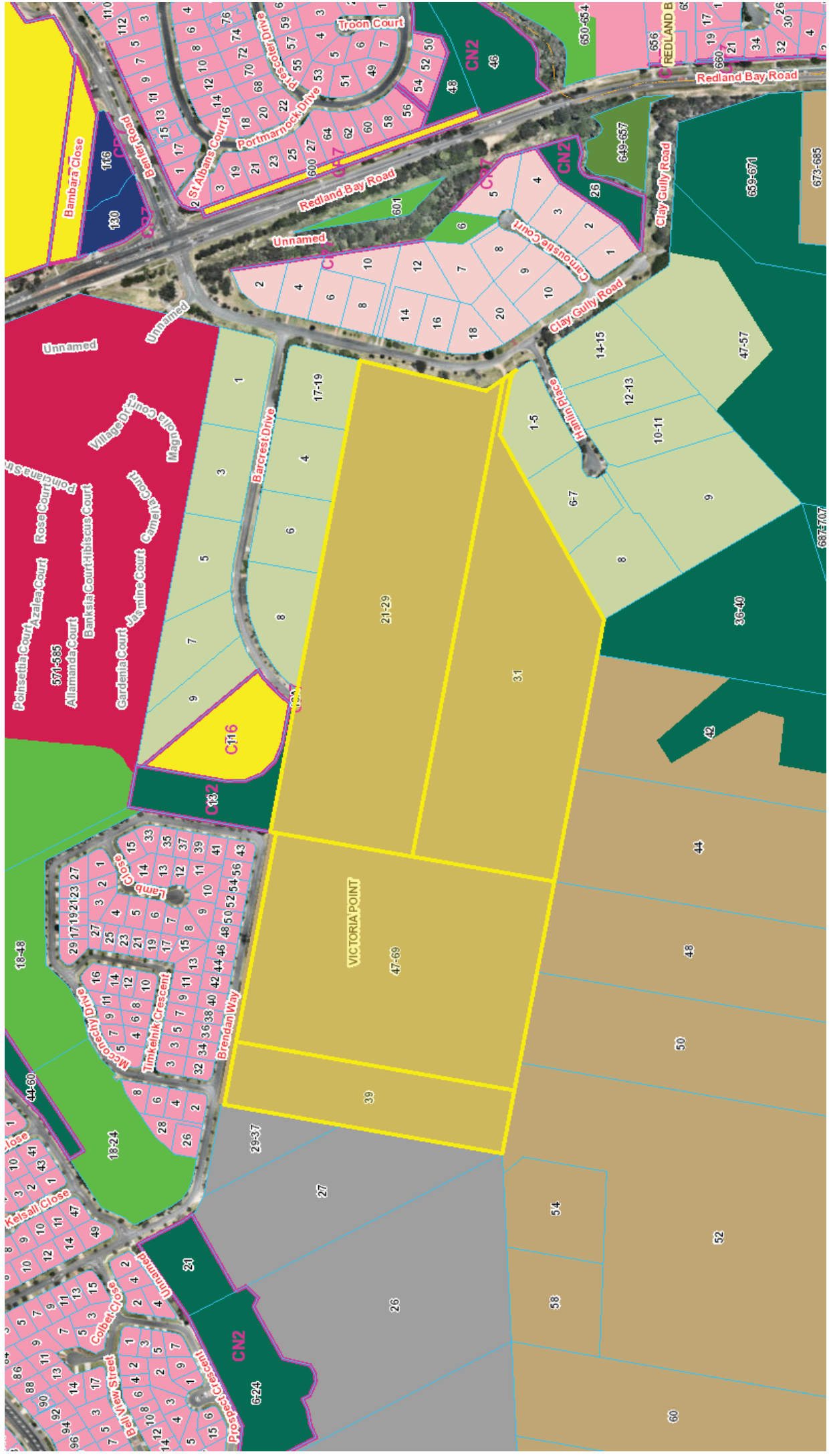
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DOCUMENT : CA
PROJECT : ASB22

SCALE : 1:1500 @ A1 1:3000 @ A3
SHEET NUMBER : ASB22-S001
REVISION : K



Average width	Average depth	Average size	YIELD AND MIX								TOTAL				
			12.5m 29-31m 401sqm	14m 29-31m 435sqm	16m 29-31m 505sqm	14m 28m 411sqm	16m 28m 459sqm	20-25m 31-42m 725sqm	Vendor Lots 2949sqm	40					
STAGE 1	1	3%	7	19%	3	8%	11	28%	6	15%	8	20%	4	10%	40
STAGE 2	7	15%	21	0%	9	19%	6	13%	2	4%	0	0%	2	4%	47
STAGE 3	2	6%	4	12%	4	12%	4	12%	10	29%	10	29%	0	0%	34
STAGE 4	5	14%	11	31%	17	49%	0	0%	1	3%	1	3%	0	0%	35
STAGE 5	6	17%	10	28%	5	14%	8	22%	6	17%	1	3%	0	0%	36
STAGE 6	0	0%	16	47%	10	29%	7	21%	1	3%	0	0%	0	0%	34
STAGE 7	10	59%	4	24%	2	12%	0	0%	0	0%	0	0%	0	0%	17
STAGE 8	7	26%	3	11%	4	15%	7	26%	5	19%	1	4%	0	0%	27
YIELD	38	14%	76	28%	54	20%	43	16%	31	11%	21	8%	7	3%	220

ROL005912 – Attachment 4 – RPS zoning map















SEQ Regional Plan 2009-2031
State Planning Regulatory Provisions

Local & Regional Development Areas
Redland City Council

Map No: RD3 - Victoria Point

Gazetted: July 2009

Key

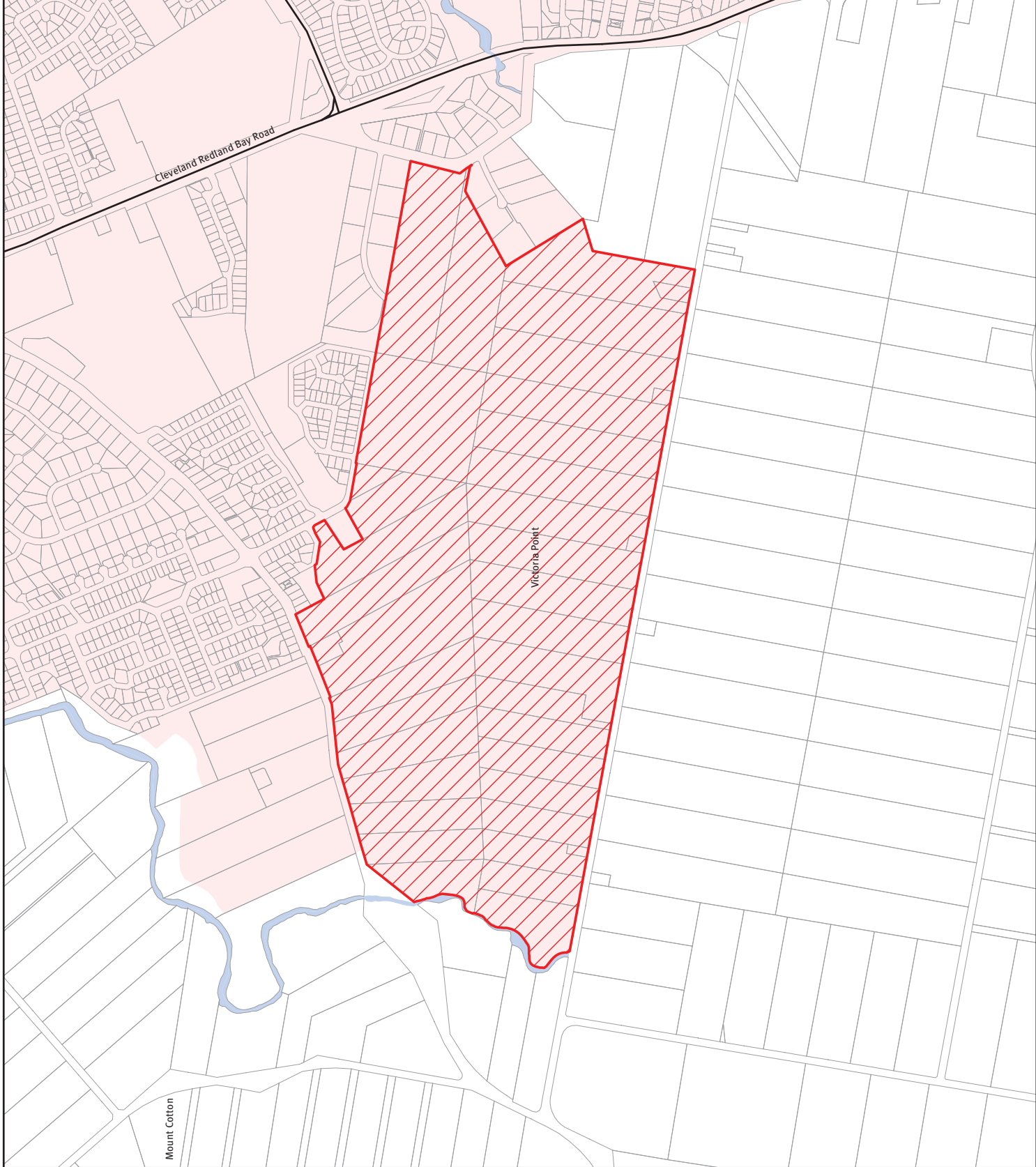
-  Development Area
-  Urban Footprint
-  Rural Living Area
-  Regional Landscape and Rural Production Area
-  Cadastral parcels
-  Freeways/Motorways
-  Highways
-  Secondary Roads
-  Railway lines
-  Waterbodies and waterways



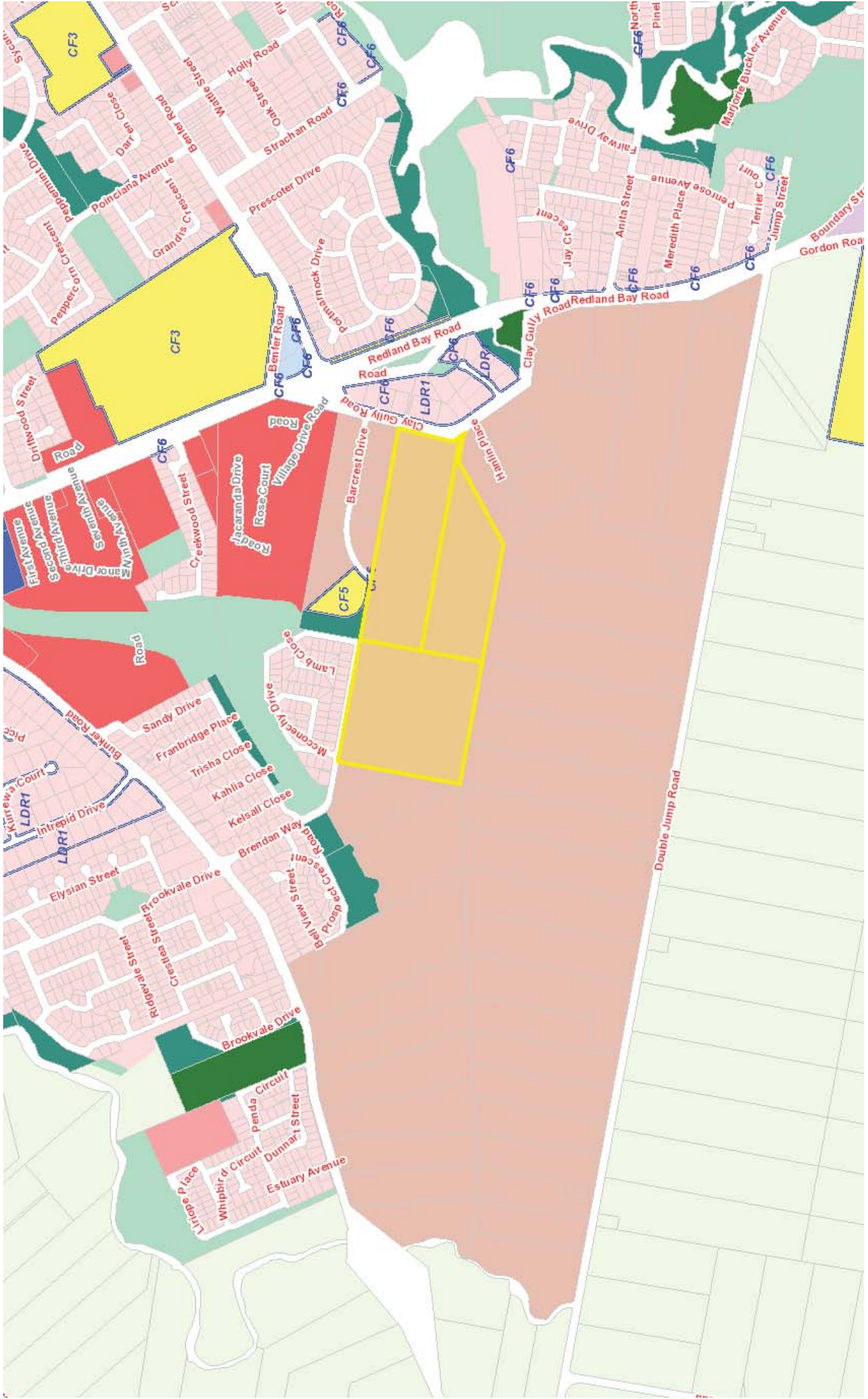
All the information contained within the mapping is derived from the Digital Cadastral Database (CDB), March 2008, as supplied to the Department of Infrastructure and Planning by the Department of Environment and Resource Management.

While every care has been taken to ensure the accuracy of this product, the Department of Infrastructure and Planning and the Department of Environment and Resource Management make no representations or warranties about the accuracy or completeness of the information contained in this product, and accept no liability (in negligence) for all expenses, losses, damages (including indirect or consequential) or any other claims or actions that may be incurred or produced by the use of this product.

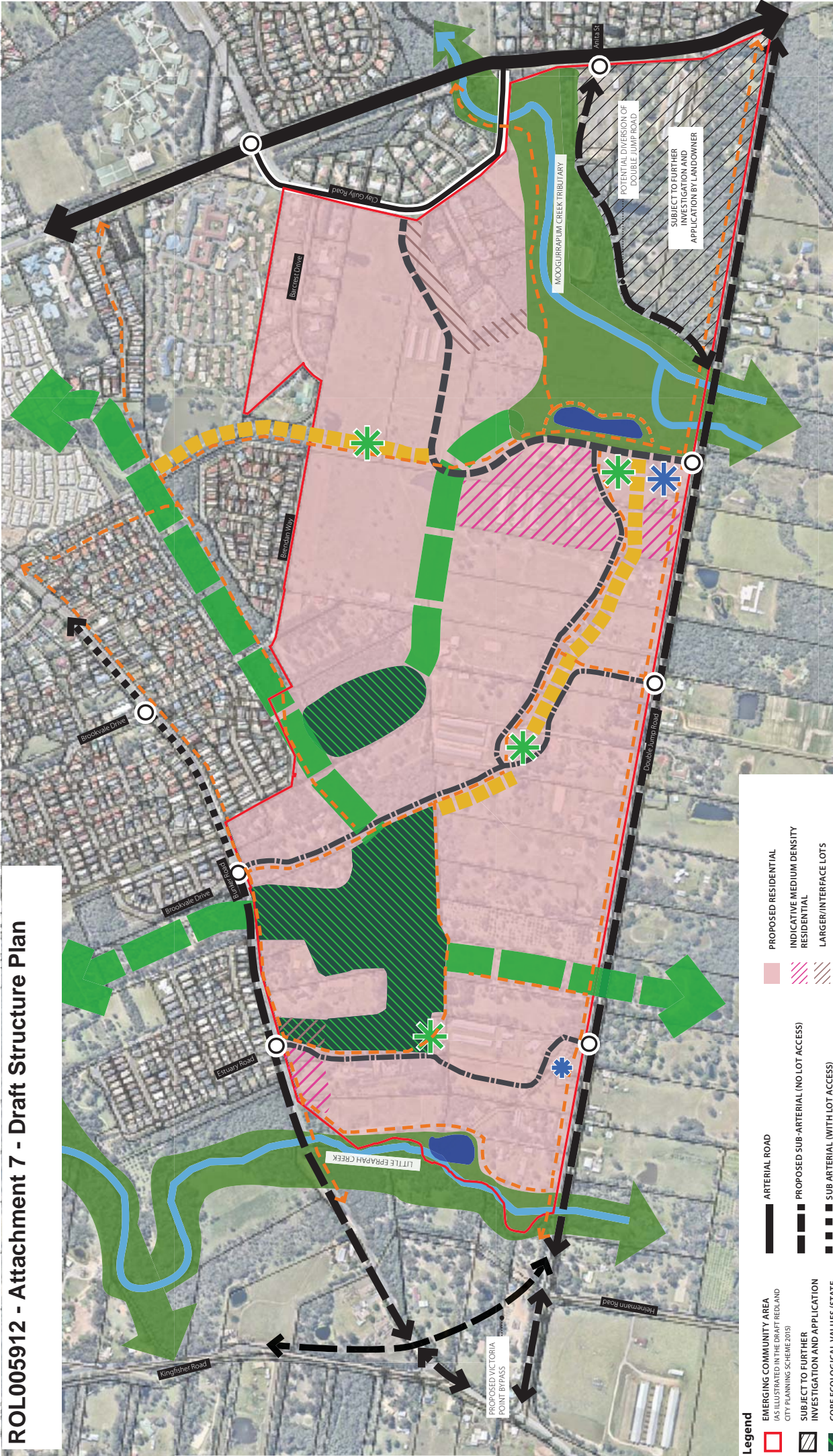
© The State of Queensland 2009



ROL005912 – Attachment 6 – Draft City Plan zoning



ROL005912 - Attachment 7 - Draft Structure Plan



Legend

- EMERGING COMMUNITY AREA (AS ILLUSTRATED IN THE DRAFT REDLAND CITY PLANNING SCHEME 2015)
- SUBJECT TO FURTHER INVESTIGATION AND APPLICATION MAPPING
- CORE ECOLOGICAL VALUES (STATE)
- PRIMARY (ECOLOGICAL) CORRIDOR
- SECONDARY (LINKAGE) CORRIDOR
- LOCAL PARK
- AESTHETIC/MULTI-FUNCTION SPINE (AESTHETIC PEDESTRIAN/CYCLE & STORMWATER FUNCTION)
- ARTERIAL ROAD
- PROPOSED SUB-ARTERIAL (NO LOT ACCESS)
- SUB-ARTERIAL (WITH LOT ACCESS)
- PROPOSED RESIDENTIAL COLLECTOR WITH BUS ROUTE
- PROPOSED RESIDENTIAL COLLECTOR
- SHARED CYCLE/PEDESTRIAN NETWORK
- EXISTING OR PROPOSED INTERSECTION
- PROPOSED RESIDENTIAL INDICATIVE MEDIUM DENSITY RESIDENTIAL
- LARGER/INTERFACE LOTS
- PROPOSED NEIGHBOURHOOD CENTRE
- PROPOSED SERVICE STATION
- CREEKS
- REGIONAL STORMWATER DEVICE

SUBJECT TO FURTHER INVESTIGATION AND APPLICATION BY LANDOWNER

POTENTIAL DIVERSION OF DOUBLE JUMP ROAD

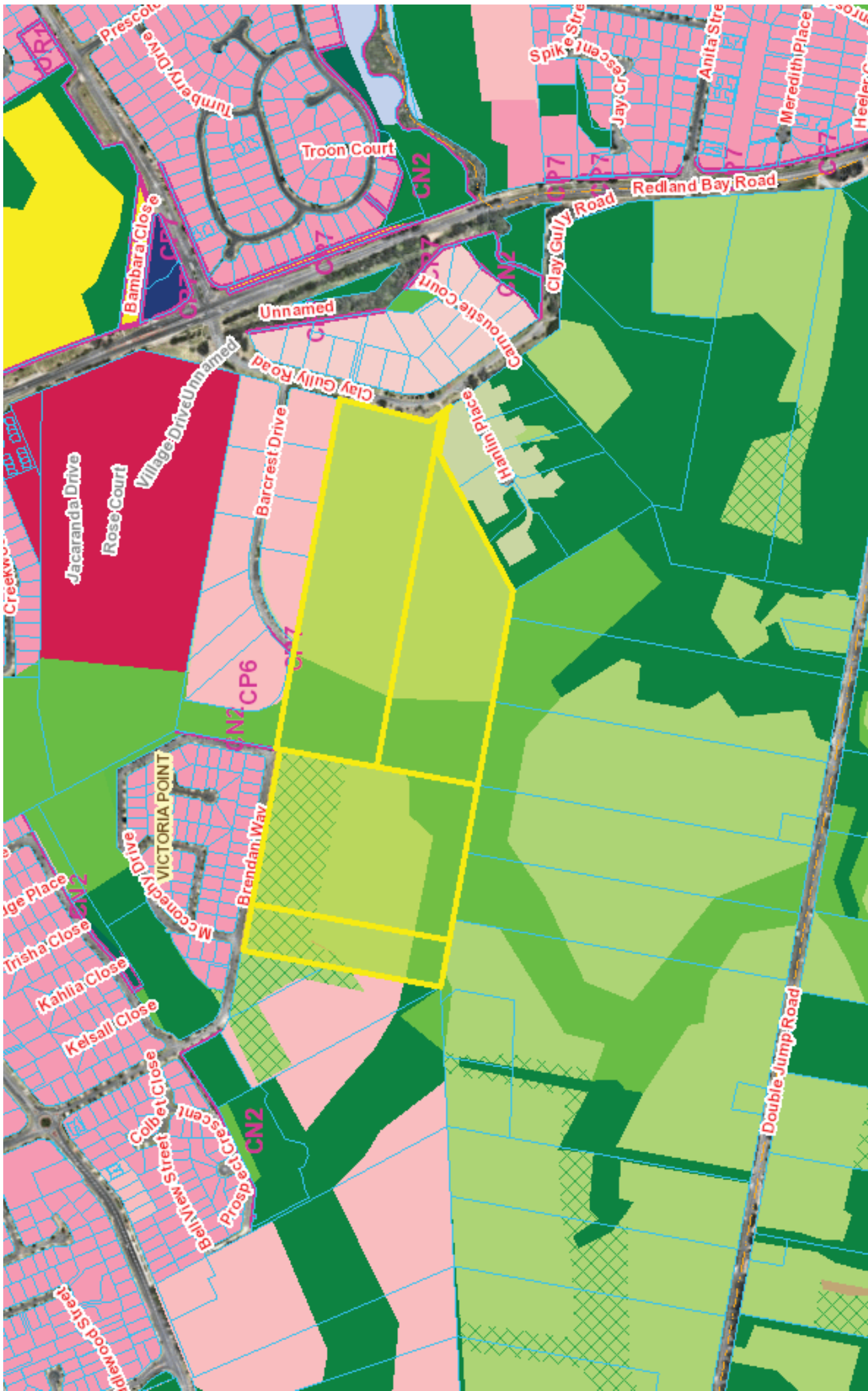
Disclaimer: Whilst every care has been taken to prepare this plan, TRACT make no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and cannot accept liability and responsibility of any kind (whether in contract, tort or otherwise) for any expenses, losses, damages and/or costs (including indirect or consequential damage) which are or may be incurred by any party as a result of this plan being inaccurate, incomplete or unsuitable in any way and for any reason.



VICTORIA POINT LOCAL DEVELOPMENT AREA STRUCTURE PLAN

Fiteni Homes - Double Jump Road

ROL005912 – Attachment 8 – Mapped Ecological Corridor



ROL005912 - Attachment 9 - State concurrence response



Department of Infrastructure,
Local Government and Planning

Our reference: SDA-0415-019880
Your reference: ROL005912

22 November 2017

Chief Executive Officer
Redland City Council
PO Box 21
CLEVELAND QLD 4163

Via email: DAmailbox@redland.qld.gov.au

Dear Sir/Madam

Amended concurrence agency response – with conditions

21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165 – Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635
(Related to section 290(1)(b) of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning (the department) issued a concurrence agency response under section 285 of the *Sustainable Planning Act 2009* (the Act) on 15 December 2016. On 13 November 2017, the department received representations from the applicant requesting that the department amend its concurrence agency response under section 290(1)(b)(i) of the Act.

The department has considered the written representations and agrees to issue the following amended concurrence agency response.

Applicant details

Applicant name: Ausbuild Pty Ltd
Applicant contact details: c/- Place Design Group Ptd Ltd
PO Box 419
FORTITUDE VALLEY QLD 4006
catherine.a@placedesigngroup.com

Site details

Street address: 21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165
Lot on plan: Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635

Local government area: Redland City Council

Application details

Proposed development: Development Permit for a Reconfiguration of a Lot by Standard Format Plan (three lots into 263 lots)

Referral triggers

The development application was referred to the department under the following provisions of the Sustainable Planning Regulation 2009:

Referral triggers: Schedule 7, Table 2, Item 39—Regional Plan
Schedule 7, Table 3, Item 2—State-transport Infrastructure

Previous Concurrence Agency Response details

Date of original response: 15 December 2016

Original response details: Approved subject to conditions

Date of previous amended response: 13 August 2017

Previous amended response details: Amended response issued (revised plan references)

Nature of the changes

The nature of the change agreed to in the current request are:

- Amendment to the Reconfiguration of a Lot Plan

An amended concurrence agency response for this request is attached. The applicant has provided written agreement to this amended concurrence agency response, as attached.

For further information, please contact Alice Davis, Acting Principal Planning Officer on (07) 5644 3223 or via email GCSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Adam Norris

A/Manager, Planning and Development Services (SEQ South)

cc: Ausbuild Pty Ltd C/- Place Design Group Pty Ltd, catherine.a@placedesigngroup.com
enc: Attachment 1—Amended conditions to be imposed
Attachment 2—Reasons for decision to impose amended conditions
Attachment 3—Amended further advice
Attachment 4—Approved Plans and Specifications
Attachment 5—Applicant written agreement to amended concurrence agency response

Our reference: SDA-0415-019880
 Your reference: ROL005912

Amended concurrence agency response

(Given under section 290 of the *Sustainable Planning Act 2009*)

Site details

Street address: 21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165
 Lot on plan: Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635
 Local government area: Redland City Council

Application details

Proposed development: Development Permit for a Reconfiguration of a Lot by Standard Format Plan (three lots into 270 lots)

Referral triggers

The development application was referred to the department under the following provisions of the Sustainable Planning Regulation 2009:

Referral triggers: Schedule 7, Table 2, Item 39—Regional Plan
 Schedule 7, Table 3, Item 2—State-transport Infrastructure

Amended Conditions

Under section 287(1)(a) of the Act, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the Act, the department must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Further advice

Under section 287(6) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the following plans and specifications set out below and in Attachment 4 must be attached to any development approval.

Drawing/Report Title	Prepared by	Date	Reference no.	Version/Issue
Aspect of development: Reconfiguring a Lot				
Intersection upgrade	Lambert & Rehbein	15 December 2015	B14112-SK-001	-
ROL Plan (as amended in red by SARA on 22 November 2017)	Place Design Group	6-11-2017	ASB32-SK01	K

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 1 — Amended conditions to be imposed

No.	Conditions of Development Approval	Condition Timing
Development Permit - Reconfiguring a Lot (3 lots into 270 lots)		
Schedule 7, Table 3, Item 2—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1	<p>(a) Road works comprising:</p> <ul style="list-style-type: none"> • a 'Keep Clear' zone pavement marking in Clay Gully Road opposite the entry to the existing Retirement Facility near Cleveland-Redland Bay Road; and • a (high entry angle) left turn slip lane from Clay Gully Road approach into Cleveland-Redland Bay Road (north); <p>must be provided generally in accordance with Intersection Upgrade prepared by Lambert & Rehbein dated 15 December 2015, reference B14112-SK-001 as amended in blue by the SARA on 22 November 2017 to widen the proposed left turn lane to a minimum of 4.6 metres width.</p> <p>(b) The road works must be designed and constructed in accordance with the current version of the Department of Transport and Main Roads Road Planning and Design Manual.</p>	Prior to submitting the Plan of Survey to the local government for approval.
2	The ROL Plan prepared by Place Design Group Pty Ltd dated 6-11-2017, reference ASB32-SK01 and revision K, as amended in red to illustrate the future potential bus route by SARA on 22 November 2017 must be designed and constructed by the applicant to be in accordance with the Schedule – Code for IDAS, Part 2 – Development Standards of the <i>Transport Planning and Coordination Regulation 2005</i> to accommodate a single unit rigid bus of 12.5m in length.	Prior to submitting the Plan of Survey to the local government for approval for the relevant stage.
3	<p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • ROL Plan prepared by Place Design Group Pty Ltd dated 6-11-2017, reference ASB32-SK01 and revision K, as amended in red to illustrate the future potential bus route by SARA on 22 November 2017. 	Prior to submitting the final Plan of Survey to the local government for approval and to be maintained at all times.
Development Permit - Reconfiguring a Lot (3 lots into 270 lots)		

<p>Schedule 7, Table 2, Item 39—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i>, the chief executive administering the Act nominates the Director-General of the Department of Infrastructure, Local Government and Planning to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:</p>		
4	<p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • ROL Plan prepared by Place Design Group Pty Ltd dated 6-11-2017, reference ASB32-SK01 and revision K, as amended in red to illustrate the future potential bus route by SARA on 22 November 2017. 	<p>Prior to submitting the final Plan of Survey to the local government for approval and to be maintained at all times.</p>

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 2 — Reasons for decision to impose amended conditions

The reasons for this decision are:

- To ensure the road works on, or associated with, the state-controlled road network are undertaken in accordance with applicable standards.
- To provide, as far as practicable, public passenger transport infrastructure to support public passenger services.
- To ensure the development is carried out generally in accordance with the plans of development submitted with the application

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 3 — Amended further advice

General advice	
Ref.	Public Passenger Transport
1.	<p>Potential future bus route</p> <p>The development is reliant on access to the external road network via Clay Gully Road and Cleveland Redland bay Road, which will be a critical link as part of a potential future bus route through the development. Clay Gully Road and proposed left turning lane into Cleveland Redland Bay Road must be designed and constructed in accordance with the Schedule – Code for IDAS, Part 2 – Development Standards of the <i>Transport Planning and Coordination Regulation 2005</i> to accommodate a single unit rigid bus of 12.5m in length.</p> <p>In particular, the proposed left turning lane from Clay Gully Road into Cleveland Redland bay Road needs to demonstrate that a bus can effectively negotiate the left turn and then enter the indented bus bay. Please ensure that a 12.5m bus as a design vehicle can stop parallel to the edge of the bus bay.</p> <p>Traffic calming devices should not be incorporated into the design and construction of potential future bus routes in accordance with Chapter 2 - Planning and Design, Section 2.3.2 Bus Route Infrastructure (page 6) of the Department of Transport and Main Roads <i>Public Transport Infrastructure Manual, 2015</i>.</p> <p>The Department of Transport and Main Roads' TransLink <i>Public Transport Infrastructure Manual 2015</i> is available at: http://translink.com.au/about-translink/reports-and-publications</p>
2.	<p>Existing bus stop</p> <p>The development includes upgrade works to the Clay Gully Road and Cleveland-Redland Bay Road intersection, which may impact on the existing bus stop 'Redland Bay Rd at Victoria Point High School, Victoria Point', TransLink Number: 400028, Hastus ID: 311167. This bus stop must be able to function and pedestrian access to this facility must be maintained during the works.</p> <p>Accordingly, if any temporary bus stop and pedestrian access arrangements are required, the applicant must reach agreement on suitable arrangements with the Department of Transport and Main Roads' TransLink Division (07 3851 8700 or at bus_stops@translink.com.au) prior to any construction or works commencing.</p>
3.	<p>Urban Bus Stops on a State-controlled road</p> <p>In accordance with Section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> (TIA) and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled roads) Regulation 2006</i>, you must have written approval to carry out ancillary works and encroachments on a state-controlled road. These development conditions do not constitute such an approval. You will need to contact the Department of Transport and Main Roads on 3066 5834 to make an application for a Road Corridor Permit under section 50(2) of the TIA to carry out ancillary works and encroachments. Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters, vegetation clearing, landscaping and planting.</p>

	The Department of Transport and Main Roads' technical standards and publications can be accessed at http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx .
Further development permits, compliance permits or compliance certificates	
Ref.	State-controlled roads
4.	Road works approval: Under section 33 of the <i>Transport Infrastructure Act 1994</i> , written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Department of Transport and Main Roads on metropolitan.IDAS@tmr.qld.gov.au to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. 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 of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.
5.	Compliance: Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the Department of Transport and Main Roads has been nominated by the Chief Executive of the Department of Infrastructure Local Government and Planning as the entity responsible for the administration and enforcement of concurrence agency conditions within TMR's area of interest (e.g development impacting on State-controlled roads). The Department of Infrastructure Local Government and Planning wishes to advise Redland City Council that any matter regarding compliance with the concurrence agency conditions (including compliance with certain conditions before the Plan of Survey has been submitted to Council for approval), that they must be addressed to the District Director (Metropolitan District) in the Department of Transport and Main Roads. If Council has any questions or wish to further discuss this matter, please contact the Metropolitan office at the Department of Transport and Main Roads on Metropolitan.IDAS@tmr.qld.gov.au .
South East Queensland Regional Plan 2009-2031 (SEQ Regional Plan)	
6.	The SEQ Regional Plan sets out a clear policy direction under Desired Regional Outcome 8.1 Compact development that any new residential development in Development Areas must achieve a minimum dwelling yield of 15 dwellings per hectare net. Please note that the local and regional development areas under the former SEQ Regional Plan are no longer considered development areas for the purposes of the Planning Regulation 2017. As such, it will be the responsibility of the local government to ensure that land is developed efficiently and at a density that will enable the dwelling targets under the <i>South East Queensland Regional Plan 2017</i> (ShapingSEQ) to be met.

Our reference: SDA-0415-019880

Your reference: ROL005912

Attachment 4 — Approved plans and specifications

BREXNAME
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PROJECT

CLIENT

AUSBUILD

KEY PLAN NOTES

- SITE BOUNDARY
- STAGING BOUNDARY
- OPEN SPACE/PARK/STORMWATER
- EXISTING ACCESS EASEMENT
- PROPOSED ACCESS EASEMENT
- PROPOSED COVEMENT FOR OPEN SPACE CORRIDOR

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DRAWING TITLE

ROL PLAN

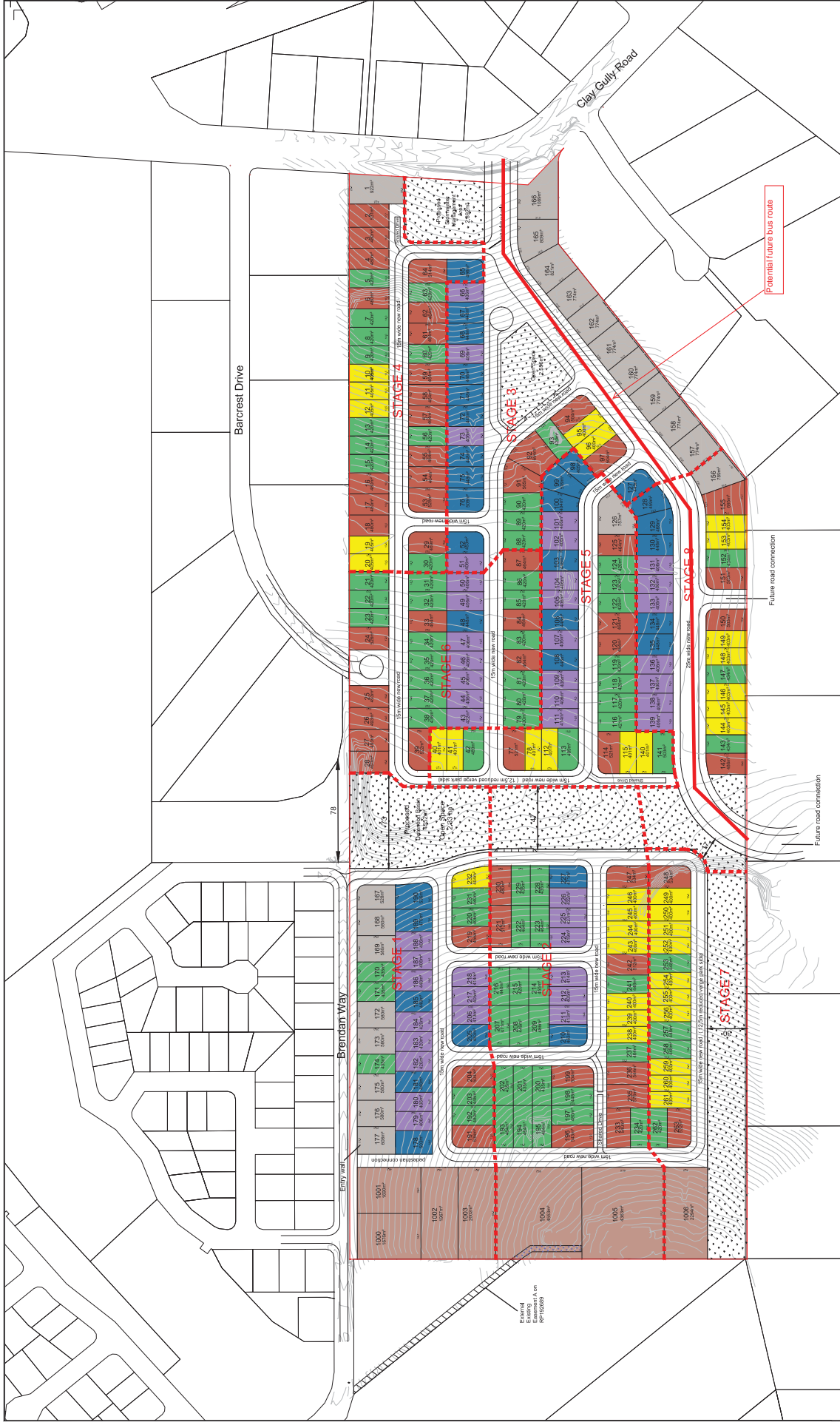
DESIGN : CA
DOCUMENT : CA
PROJECT : ASB32

SCALE : 1:1500 @ A1 1:3000 @ A3
SHEET NUMBER : ASB32-S001
REVISION : K

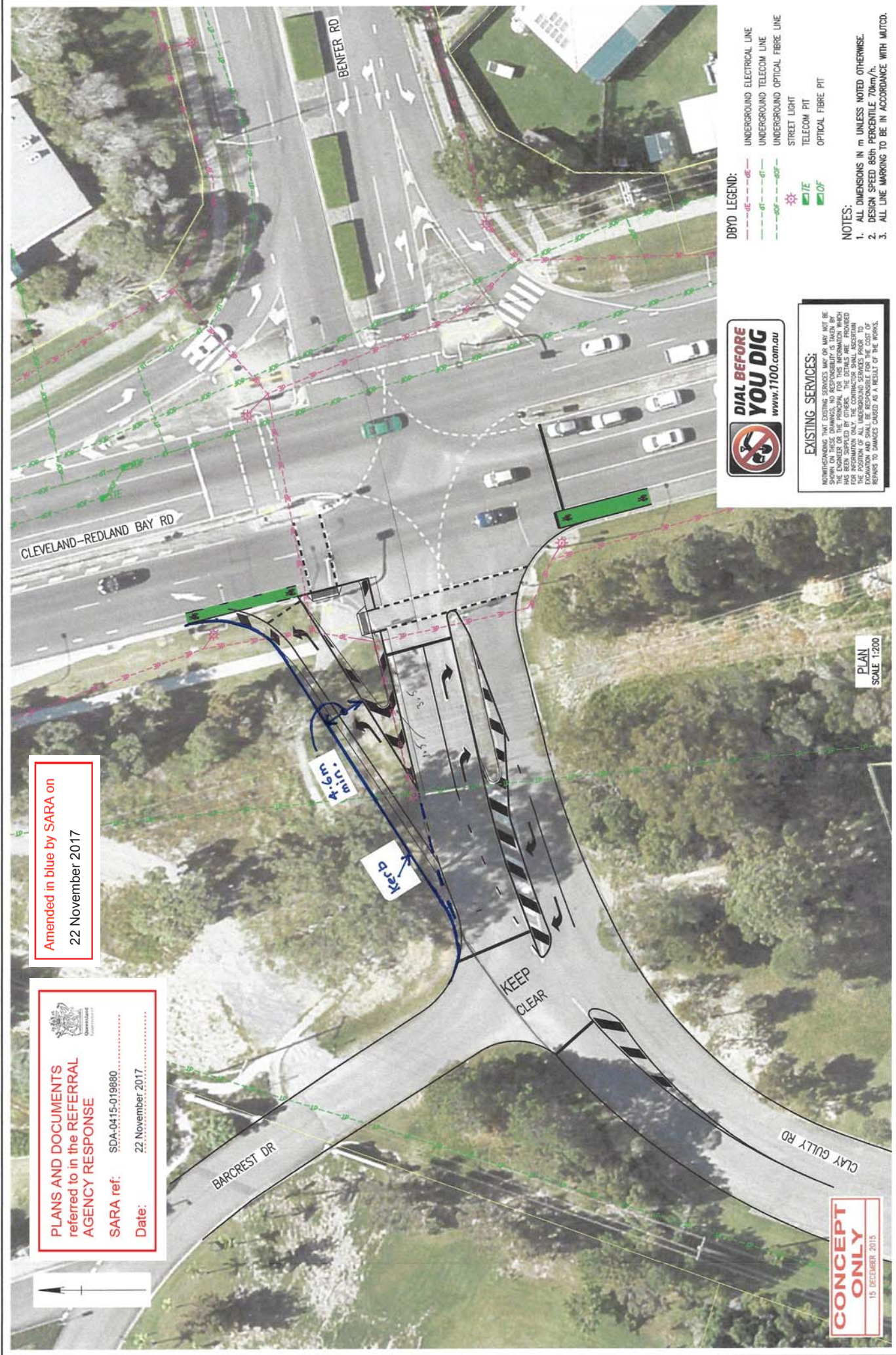
PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

SARA ref: SDA-0415-019880
Date: 22 November 2017

Amended in red by SARA on 22 November 2017



Average width	Average depth	Average size	YIELD AND MIX								TOTAL				
			12.5m 29-31m 401sqm	14m 29-31m 435sqm	16m 29-31m 505sqm	14m 28m 411sqm	16m 28m 459sqm	20-25m 31-42m 725sqm	Vendor Lots 2949sqm	40					
STAGE 1	1	3%	7	18%	3	8%	11	28%	6	15%	8	20%	4	10%	40
STAGE 2	7	15%	21	0%	9	19%	6	13%	2	4%	0	0%	2	4%	47
STAGE 3	2	6%	4	12%	4	12%	4	12%	10	29%	10	29%	0	0%	34
STAGE 4	5	14%	11	31%	17	49%	0	0%	1	3%	1	3%	0	0%	35
STAGE 5	6	17%	10	28%	5	14%	8	22%	6	17%	1	3%	0	0%	36
STAGE 6	0	0%	16	47%	10	29%	7	21%	1	3%	0	0%	0	0%	34
STAGE 7	10	59%	4	24%	2	12%	0	0%	0	0%	0	0%	0	0%	17
STAGE 8	7	26%	3	11%	4	15%	7	26%	5	19%	1	4%	0	0%	27
YIELD	38	14%	76	28%	54	20%	43	16%	31	11%	21	8%	7	3%	220



EXISTING SERVICES:
 NUMBERED SERVICES ARE SHOWN ON THESE PLANS. ANY USE OF THE ENGINEER OR THE PROVIDER FOR THE INFORMATION WHICH HAS BEEN PROVIDED BY THE ENGINEER OR THE PROVIDER IN CONNECTION WITH THE DESIGN OF ANY UNDERGROUND SERVICES PRIOR TO EXCAVATION AND SHALL BE RESPONSIBLE FOR THE COST OF ANY DAMAGE TO SERVICES CAUSED AS A RESULT OF THE WORK.

- DBYD LEGEND:**
- OE--- UNDERGROUND ELECTRICAL LINE
 - OT--- UNDERGROUND TELECOM LINE
 - OF--- UNDERGROUND OPTICAL FIBRE LINE
 - ★ STREET LIGHT
 - ⊠ TELECOM PIT
 - ▭ OPTICAL FIBRE PIT

- NOTES:**
1. ALL DIMENSIONS IN m UNLESS NOTED OTHERWISE.
 2. DESIGN SPEED 85th PERCENTILE 70km/h.
 3. ALL LINE MARKING TO BE IN ACCORDANCE WITH MUTCO.

Amended in blue by SARA on
22 November 2017

PLANS AND DOCUMENTS
 referred to in the REFERRAL
 AGENCY RESPONSE

SARA ref: SDA-0415-019880
 Date: 22 November 2017

CONCEPT ONLY
 15 DECEMBER 2015

PLAN
 SCALE 1:200

Project: CLAY GULLY ROAD RESIDENTIAL		Client: AUS/BUILD		Figure No: BM112-SK-001	
Title: INTERSECTION UPGRADE CLAY GULLY RD AND BARCREST DR		Drawn: AS		Scale: AS SHOWN	
Drawn: AS		Checked: AS		Rev: DATE	
Approved: AS		Scale: SEE BELOW		Rev: DATE	
LAMBERT & REHBEIN ENGINEERS • MANAGERS • SCIENTISTS 1/1100 CLAY GULLY ROAD PORTLAND VICTORIA 3207 TEL: 03 9411 1111 FAX: 03 9411 1112 WWW.LR.COM.AU		Approved: AS Checked: AS Scale: SEE BELOW Rev: DATE		Figure No: BM112-SK-001 Scale: AS SHOWN Rev: DATE File Ref: SEE BELOW	



Our reference: SDA-0415-019880
Your reference: ROL005912

Attachment 5 — Applicant written agreement to amended concurrence agency response

Your reference: SDA-0415-019880

Attn: Alice Davis, Acting Principal Planning Officer (SEQ South)

Written agreement for the Department of Infrastructure, Local Government and Planning to amend its concurrence agency response

(Given under section 290(1)(b)(i) of the *Sustainable Planning Act 2009*)

Street address: 21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point QLD 4165

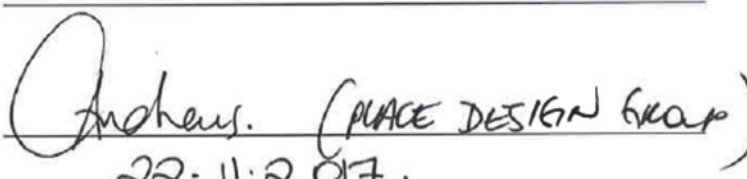
Real property description: Lot 4 on RP57455, Lot 1 on RP95513 and Lot 1 on RP726635

Assessment manager reference: ROL005912

Local government area: Redland City Council

As the applicant of the above development application, I hereby agree to the amended concurrence agency response provided to me in the notice dated 21 November 2017:

Name of applicant: Ausbuild Pty Ltd c/- Place Design Group Pty Ltd

Signature of applicant:  Andrew. (PLACE DESIGN GROUP)

Date: 22.11.2017.



Wed 22/11/2017 10:04 AM

Catherine Andrews <catherine.a@placedesigngroup.com>

RE: 20171121 - Request for applicant agreement - amended concurrence agency response - SDA-0415-019880 - Clay Gully

To ● Alice Davis

i You replied to this message on 22/11/2017 10:05 AM.

Yes, we agree to amendments to the conditions that allow the dates to be updated.

Kind Regards,

Catherine Andrews Senior Town Planner
catherine.a@placedesigngroup.com
M +61 439 797 212

T +61 7 3852 3922
131 Robertson Street
Fortitude Valley 4006 QLD Australia



Twitter / LinkedIn / Instagram / Facebook
placedesigngroup.com



ROL005912 - Attachment 10 - Koala Conservation mapping

Victoria Point

Koala assessable development area

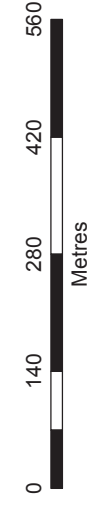
Koala assessable development area

Priority koala assessable development area

Priority koala assessable development area



DA Mapping System - Print Screen



Date: 22/02/2018



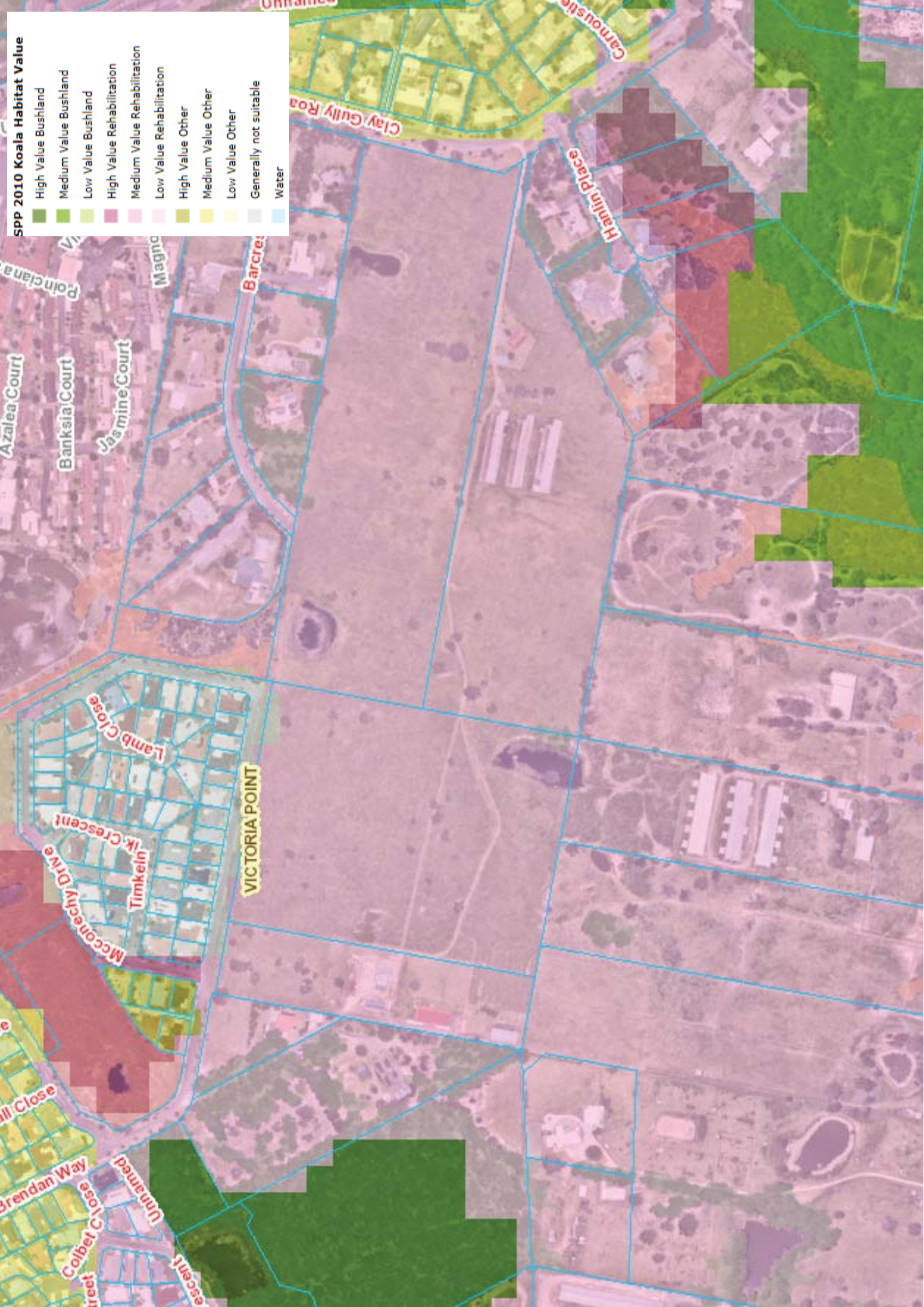
Department of State
Development, Manufacturing,
Infrastructure and Planning

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Disclaimer:
This map has been generated from the information supplied to the Department of State Development, Manufacturing, Infrastructure and Planning for the purposes of the Development Assessment Mapping System. Note that this is a print screen only. The map generated has been prepared with due care based on the best available information at the time of publication. The State of Queensland holds no responsibility for any errors, inconsistencies or omissions within this document. Any decisions made by other parties based on this document are solely the responsibility of those parties. This information is supplied subject to the full terms and conditions available on the department's website.

SPP 2010 Koala Habitat Value

High Value Bushland	High Value Rehabilitation	Low Value Rehabilitation	High Value Other	Medium Value Other	Low Value Other	Generally not suitable	Water
Medium Value Bushland	Medium Value Rehabilitation	Low Value Rehabilitation	High Value Other	Medium Value Other	Low Value Other	Generally not suitable	Water
Low Value Bushland	High Value Rehabilitation	Medium Value Rehabilitation	High Value Other	Medium Value Other	Low Value Other	Generally not suitable	Water



**Infrastructure Agreement
21-29 and 31 Clay Gully Road and 39
Brendan Way, Victoria Point**

AUSBUILD PTY LTD
ACN 010 138 860

and

REDLAND CITY COUNCIL

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This Infrastructure Agreement

is made the day of February 2018 between the following parties:

1 Ausbuild Pty Ltd ACN 010 138 860 of Pittwin Road North,
Capalaba, Queensland;
(Developer)

AND

2 Redland City Council of Corner Bloomfield & Middle Streets,
Cleveland, Queensland.
(Council)

Recitals

- A. The Development Land is to be the subject of the Proposed Development.
- B. The Proposed Development of the Development Land requires the provision of Infrastructure Contributions.
- C. The Development Obligations require Infrastructure Contributions to be provided before or as part of the Proposed Development so that the Development Obligations are correlated with the Proposed Development.

The parties agree

that in consideration of, among other things, the mutual promises contained in this Agreement:

1 Definitions and Interpretation

1.1 Definitions

In this Agreement:

Agreed Amount means the amount identified in Item 1.1 of the Infrastructure Contributions Schedule;

Agreement means this agreement and includes any annexure, exhibit and schedule to this agreement;

Application means an application for an Approval;

Approval means a consent, permit, licence, certificate, authorisation, registration, membership, allocation or approval under a law and includes a development approval;

Approval Authority means an Authority under a law having the function to decide an Approval;

Authority means a government, semi-government, Local Government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other entity or body with relevant power or authority;

Business Day has the meaning given to it in the *Acts Interpretation Act 1954* (Qld);

Calendar Day means from one midnight to the following one;

Claim means in relation to a person, an allegation, debt, cause of action, liability, proceeding, suit or demand of any nature at law or otherwise made against the person concerned however it arises, whether present or future, fixed or unascertained, actual or contingent;

Commencement Date means the date on which this Agreement is made as stated in clause 1.6;

Council means Redland City Council;

Developable Lot means the following:

- (a) a lot comprising the Development Land at the Commencement Date;
- (b) a lot forming part of the Development Land which is not a Developed Lot;

Developed Lot means a lot forming part of the Development Land which:

- (a) is provided with the Infrastructure and services necessary to enable its use in accordance with the Development Entitlements; and
- (b) is not intended to be the subject of:
 - (1) an Application for a material change of use; and
 - (2) a further reconfiguring of a lot;

Developer means the party identified as the Developer in this Agreement and includes the Developer's permitted assigns;

Development Entitlements means the entitlements for the development of the Development Land in a Prescribed Approval;

Development Land means the land stated in Schedule 2;

Development Obligations means those obligations set out in clause 4.1;

Financial Contribution means the provision of a monetary sum for Infrastructure;

Force Majeure means an event:

- (a) being a decree of the Commonwealth Government or the State Government, an act of God, industrial disturbance, act of public enemy, war, international blockage, public riot, lightning, flood, earthquake, fire, storm or other event whether of a kind herein specified or otherwise; and
- (b) which is not within the reasonable control of the party claiming Force Majeure; and
- (c) which could not have been prevented by the exercise by that party of a standard of foresight, care and diligence consistent with that of a prudent and competent person under the circumstances;

GST has the meaning in the GST Act;

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Infrastructure or Infrastructure Item means water supply, sewerage, waterways, transport and community purposes infrastructure;

Infrastructure Charge means a charge for Infrastructure levied under an Infrastructure Charging Instrument;

Infrastructure Charging Instrument means a law or an instrument made under a law by an Authority for the levying of an Infrastructure Charge;

Infrastructure Contribution means a contribution for Infrastructure which may be in the form of the following:

- (a) a Financial Contribution;
- (b) a Land Contribution;
- (c) a Work Contribution;
- (d) a Mixed Contribution;

Infrastructure Contributions Schedule means the schedule of Infrastructure Contributions, if any, in Schedule 2;

Infrastructure Offset means the actual cost of an Infrastructure Contribution which may be offset against the Agreed Amount;

Land Contribution means the provision of land including an easement for Infrastructure;

Mixed Contribution means a contribution for Infrastructure involving a combination of two or more of the following:

- (a) a Financial Contribution;
- (b) a Land Contribution;
- (c) a Work Contribution;

Notice means a document to be given by a party or a person under this Agreement in accordance with clause 5.3;

Owner means the owner of the Development Land for the time being;

Plan of Subdivision means a plan however called for reconfiguring a lot, which under a law requires the Approval in whatever form, of an Approval Authority before it can be registered or otherwise recorded under that law;

Example – A Plan of Subdivision is commonly referred to as a survey plan

Planning Act means the *Planning Act 2016*;

Planning Scheme means Redlands Planning Scheme Version 7.1 adopted on 8 June 2016 (effective as of 17 June 2016);

Practical Completion means that stage in the execution of the Works when:

- (a) the works are complete except for minor omissions and minor defects:

- (1) which do not prevent the Works from being reasonably capable of being used for their intended purpose; and
 - (2) which the Council determines the Developer has reasonable grounds for not promptly rectifying; and
 - (3) rectification for which will not prejudice the convenient use of the Works; and
- (b) those tests which are reasonably required to be carried out and passed before the Works reach Practical Completion have been carried out and passed; and
 - (c) documents and other information reasonably required which, in the opinion of the Council are essential for the use, operation and maintenance of the Works have been supplied;

Prescribed Application means an Application stated in Schedule 2 and includes a document submitted for the Application before the determination of the Application;

Prescribed Approval means the Approval of a Prescribed Application subject to the Prescribed Approval Conditions that takes effect pursuant to section 71 of the Planning Act and includes any changes to the Approval under the Planning Act;

Prescribed Approval Conditions means the conditions for an Approval of a Prescribed Application that takes effect under section 71 of the Planning Act;

Proposed Development means the development and ongoing use of the Development Land provided for in the Development Entitlements;

Road and Bridge Construction Index means the 6427.0 - Producer Price Index; Index Number 3101 Road and Bridge Construction Queensland; Series ID A2333727L, published by the Australian Bureau of Statistics;

Special Conditions means the special conditions in Schedule 1;

Wastewater Financial Contribution see Special Condition 5(a);

Work Contribution means the provision of Works for Infrastructure;

Works means the works described in the Infrastructure Contributions Schedule.

1.2 Undefined word

If a word is not defined in this Agreement, unless the context or subject matter otherwise indicates or requires, the word is to have a meaning given to it by the following:

- (a) the Planning Act;
- (a) a relevant local planning instrument if the word is not defined in the Planning Act;
- (b) the Macquarie Dictionary if the word is not defined in the Planning Act or a relevant local planning instrument.

1.3 Interpretation

In this Agreement, headings and bold type are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) a reference to any thing (including any right) includes a part of that thing but nothing in this clause 1.3(e) implies that performance of part of an obligation constitutes performance of the obligation;
- (f) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Agreement;
- (g) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (h) a reference to a document (including reference to the Prescribed Approval) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to a document includes that party's successors and permitted assigns;
- (j) a reference to an agreement other than this Agreement includes an undertaking, deed, agreement or legally enforceable arrangement in writing;
- (k) a reference to a document includes any agreement in writing, or any decision notice, other notice, certificate, instrument or other document of any kind;
- (l) a reference to the word sell, includes transfer, dispose of and alienate but excludes a mortgage, licence, grant of an easement and a lease other than a lease for a term including renewal options exceeding 10 years;
- (m) all references to "\$" and "dollars" are to the lawful currency of Australia;
- (n) all references to dates and times are to Brisbane time; and
- (o) no provision of this Agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Agreement or that provision.

1.4 Inclusive expressions

Specifying anything in this Agreement after the words “includes” or “for example” or similar expressions does not limit what else is included unless there is express wording to the contrary.

1.5 Trustee

A party which is a trustee is bound both personally and in its capacity as trustee.

1.6 Date

This Agreement is made on the date when the last party executes this Agreement.

2 Infrastructure Agreement

2.1 Application of Act

This Agreement is intended to constitute an infrastructure agreement pursuant to s.150 of the Planning Act. In particular, this is an agreement about conditions pursuant to s678 of the Planning Act to the extent it is an agreement about conditions for the payment for, or the supply of, Infrastructure.

2.2 Commencement of this Agreement

This Agreement is to be of no effect until the Commencement Date.

2.3 Agreement binding

- (a) The Developer consents to the Development Obligations contained in this Agreement attaching to the Development Land so as to bind, under s.155 of the Planning Act, the Owner and the Owner’s successors in title.
- (b) The Developer warrants that:
 - (1) it is not the Owner of the Development Land;
 - (2) it has provided the Council with a document evidencing the consent of the Owner of the Development Land to the Development Obligations being attached to the Development Land.
- (c) A Development Obligation is not affected by a change in the ownership of the Development Land or a part of the Development Land other than as expressly provided in clause 6.1 or clause 6.2.

2.4 Relationship to an Approval

- (a) This Agreement is not intended to limit the nature or type of condition which an Approval Authority may lawfully impose on an Approval for the Proposed Development.
- (b) If this Agreement is inconsistent with an Approval for the Proposed Development, this Agreement prevails to the extent of the inconsistency.

2.5 Termination of the infrastructure agreement

- (a) A party may give to each other party a Notice which states that it proposes to terminate this Agreement if one of the following events has occurred:
 - (1) the Development Entitlements in:
 - (A) a Prescribed Approval do not take effect under the Planning Act; or
 - (B) a Prescribed Approval ceases to have effect under the Planning Act where the Proposed Development has not commenced;
 - (2) the parties agree as follows:
 - (A) the Development Obligations have been performed and fulfilled;
 - (B) to terminate this Agreement;
 - (3) the parties agree as follows:
 - (A) that the performance and fulfilment of this Agreement has been frustrated by an event outside of the control of the parties;
 - (B) to terminate this Agreement.
- (b) A party may at a date, which is 30 Calendar Days after the giving of the Notice under paragraph (a), give to each other party a Notice which states that this Agreement is terminated.

3 Development Entitlements

3.1 Prescribed Approval

- (a) This clause applies to a Prescribed Application.
- (b) The Council is to decide the Prescribed Application in a manner which is as timely as is reasonably practicable.
- (c) The Developer is not to make a Claim against the Council, other than as a respondent to a claim made by another person, if the Council gives the Prescribed Approval.

3.2 Change of a Prescribed Approval

- (a) This clause applies if a party or an Authority proposes to change a Prescribed Approval.
- (b) The parties are to in a manner which is as timely as is reasonably practicable:
 - (1) confer with a view to reaching an agreement as to the effect, if any, the proposed change may have on a Development Entitlement and a Development Obligation;

- (2) if the parties agree that a Development Entitlement or Development Obligation may be affected by the proposed change, use their best endeavours to review the Development Obligation, negotiate in good faith and change this Agreement to put the parties in as near as practical a position as they would have been had it not been for the proposed change, having regard to the interest of the parties in entering into this Agreement as stated in the Recitals;
- (3) invoke the dispute resolution process set out in Special Condition 10 if an agreement cannot be reached for a matter in sub-paragraphs (1) and (2); and
- (4) use their reasonable endeavours to ensure that the proposed change is not made under the Planning Act until sub-paragraphs (1) to (3) are performed and fulfilled.

4 Obligations of parties

4.1 The Developer's obligations

- (a) The Developer will, at its own cost:
 - (1) comply with:
 - (A) the Prescribed Approval Conditions;
 - (B) the Special Conditions; and
 - (C) the Infrastructure Contributions Schedule; and
 - (2) do the Works; and
 - (3) otherwise comply with the terms of this Agreement specified as applying to the Developer.
- (b) The Developer will pay for the cost of all stamp duty and registration fees payable in respect of the documents required for the purpose of complying with its obligations under the Special Conditions.

4.2 The Council's obligations

- (a) The Council will at its own cost, comply with:
 - (1) the Special Conditions;
 - (2) the Infrastructure Contributions Schedule; and
 - (3) the terms of this Agreement specified as applying to the Council.

4.3 Conversions

The Developer is not to take any action under the Planning Act for an Application to convert Infrastructure to be provided by the Developer for the Proposed Development of the Development Land from non-trunk infrastructure to trunk infrastructure.

5 General

5.1 Severance

If any clause or provision of this Agreement is void, illegal or unenforceable for any reason, that clause or provision will be severed from this Agreement and the remaining clauses and provisions will continue in full force and effect.

5.2 Payment of costs

Each party must pay its own costs and outlays, of and incidental to the negotiation, preparation, and execution of this Agreement, all counterparts of it, and any other document or instrument required under this Agreement.

5.3 Notices

(a) Any notice or other communication including any request, demand, consent or approval, to or by a party to this Agreement:

(1) must be in legible writing and in English addressed to:

(A) if to the Developer:

Attention: Ausbuild Pty Ltd
Address: PO Box 246, Capalaba Qld 4157
Telephone No: (07) 3245 0600
Facsimile No: (07) 3245 0671

(B) if to the Council:

Attention: General Counsel, Redland City Council
Address: Corner Bloomfield & Middle Streets
Cleveland QLD 4163
Facsimile No: (07) 3829 8765

(2) must be signed by an authorised officer of the sender or the solicitors for the sender;

(3) is regarded as being given by the sender and received by the addressee:

(A) in the case of delivery by hand, on the day of delivery if delivered by 5pm on a Business Day, or otherwise on the next Business Day;

(B) if it is sent by electronic mail and no electronic error notification is received by the sender, the date and time the electronic mail indicates it was sent, but if the time of sending is after 5pm on the Business Day that the electronic mail is taken to have been received or is not on a Business Day, on the following Business Day;

(C) in the case of delivery by post, 7 Calendar Days after it is posted or 10 Calendar Days after it is posted if sent to or from a place outside Australia;

- (D) in the case of a facsimile, whether or not legibly received, on the day shown on the facsimile transmission report produced by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety and error-free to the facsimile number of the addressee notified for the purpose of this clause, but if the time of transmission is after 5pm on the Business Day that the facsimile is taken to have been received or is not on a Business Day, on the following Business Day; and
- (4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequence of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

5.4 Jurisdiction

- (a) This Agreement is governed by the laws of Queensland.
- (b) Each of the parties irrevocably submits to the exclusive jurisdiction of the Courts of Queensland.

5.5 Waivers

- (a) Waiver of any right arising from a breach of this Agreement or of any right, power, authority, discretion or remedy arising upon default under this Agreement must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a right arising from a breach of this Agreement; or
 - (2) a right, power, authority, discretion or remedy created or arising upon default under this Agreement,does not result in a waiver of that right, power, authority, discretion or remedy.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this Agreement or on a default under this Agreement as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A party may not rely on any conduct of another party as a defence to the exercise of a right, power, authority, discretion or remedy by that other party.
- (e) This clause may not itself be waived except by writing.

5.6 Change

- (a) The parties may at any time agree to change, review or replace this Agreement.

- (b) A change, review or replacement of this Agreement only has effect if the change:
 - (1) is in the form of a deed executed by the parties; and
 - (2) complies with the Planning Act and any other relevant law.

5.7 Cumulative rights

The rights, powers, authorities, discretions and remedies arising out of or under this Agreement are cumulative and do not exclude any other right, power, authority, discretion or remedy of a party.

5.8 Further assurances

Each party must do all things and execute all further documents necessary to give full effect to this Agreement.

5.9 Entire agreement

This Agreement supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the parties in respect of its subject matter.

5.10 Time of the essence

Time is of the essence of this Agreement.

5.11 Extension of time

The parties may agree to extend a time stated in this Agreement by giving to each other a Notice which states the extended time.

5.12 Force Majeure

- (a) If a party is unable by reason of Force Majeure to carry out its obligations under this Agreement, that party must give a Notice to the other parties advising that Force Majeure is in existence as soon as it is reasonably practicable after the Force Majeure.
- (b) If a party gives a Notice advising of Force Majeure, that party's obligations will be suspended during the period for which the Force Majeure or its effect extends.

5.13 Counterparts

- (a) This Agreement may be executed in any number of counterparts with the same effect as if the signatures to each counterpart were on the same instrument.
- (b) The parties may exchange counterparts of the Agreement by facsimile or by attaching a scanned copy of the counterpart to an e-mail transmission as a PDF document.

6 Dealing in respect of the Development Land

6.1 Reconfiguring a lot of the Development Land

- (a) If the Development Land is subject to a reconfiguring a lot to create a Developed Lot, then a Development Obligation no longer:
 - (1) remains attached to the Developed Lot; and
 - (2) binds the Owner and the Owner's successor in title of the Developed Lot.
- (b) If the Development Land is subject to a reconfiguring a lot to create a Developable Lot, then a Development Obligation:
 - (1) remains attached to the Developable Lot; and
 - (2) binds the Owner and the Owner's successor in title of the Developable Lot.

6.2 Sale of the Development Land

The Developer is not to sell a Developable Lot before the performance and fulfilment of the Developer's Obligations contained in this Agreement except subject to the condition that the purchaser is to enter into a deed with each other party, on terms reasonably acceptable to each other party, whereby the purchaser becomes contractually bound to each other party to perform and fulfil the provisions of this Agreement or such of them as remain unperformed and unfulfilled by the Developer at the time of the sale.

Schedule 1 – Special Conditions

1 Developer's Obligations

1.1 Works

- (a) The Developer must do the Works in the Infrastructure Contributions Schedule.
- (b) Without limiting the Developer's obligations under this Agreement or otherwise, the Developer warrants that it will carry out the Works (or cause the Works to be carried out):
 - (1) in a proper and workmanlike manner in accordance with:
 - (A) legislative requirements;
 - (B) codes of practice;
 - (C) Australian and Main Roads standards;
 - (D) the requirements of the applicable Planning Scheme Policies including Policy 9 – Infrastructure Works – Chapter 5 – Road and Path Design; and
 - (E) the approved plans and specifications;
 - (2) with due diligence and without delay;
 - (3) with the standard of skill, care and diligence in the performance of the Works that would be expected of a provider of work and services of a nature similar of the Works,

and that all registrations, permits, licences, qualifications and other requirements of its trade are in full force and effect at all times.

1.2 Approval of specifications

All designs and specifications for the Works which the Developer is obliged to do (including, without limiting the generality, the specification of all filling, excavation and other earthworks and the final design and specification for the Works) must be prepared by the Developer and submitted for the approval of any authority or instrumentality as required by law. The Developer must not commence the Works before the Developer has obtained all necessary Approvals.

1.3 Final specification of Works

The Works must be done to the satisfaction of the Council, acting reasonably. In the interpretation and application of this clause:

- (a) it is recognised that some provisions of this Agreement do provide a particular specification for the Works and, in some cases do show diagrammatically and in an indicative way the location of the Works on plans or diagrams;

- (b) a specification or location has been determined on the basis of present knowledge and expectation as to circumstances which will prevail at the time the Works are to be carried out; and
- (c) the circumstances actually prevailing at the relevant time may result in it being necessary or appropriate to adopt a different specification or vary the location for the final design or performance of the Works.

Accordingly, the inclusion of a particular specification in this Agreement or the depiction of the location of the Works on a plan within the Agreement does not prevent the Developer from seeking approval to an altered specification or location and does not prevent the Council from giving approval where an alteration is necessary or appropriate having regard to the circumstances prevailing at the relevant time. Such approval shall not be unreasonably withheld or delayed by the Council.

1.4 Notice of completion

Upon effective completion of the Works, the Developer must require inspection and approval of the works by the Council by giving a Notice in that regard.

1.5 On maintenance

- (a) Upon the Council being satisfied that Practical Completion of the Works has been achieved, the Council's engineer must notify the Developer in writing that the Works are satisfactorily completed and are accepted "on maintenance" subject to such reasonable conditions as to incomplete work as may be set out in the notification. A maintenance period of twelve (12) months commences to run from the date of such notice. Any defect in the Works advised in writing to the Developer by the Council during the maintenance period must be corrected by the Developer within a reasonable time, such time to be stated in the Notice given by the Council to the Developer. The period of maintenance for remedial works shall commence on the date on which the defects are corrected and expire twelve (12) months after that date unless a lesser period of maintenance is approved by the Council's engineer.
- (b) On and from the expiry of the maintenance period the Council is responsible for the maintenance and upkeep of the Works.

1.6 Right of entry

- (a) The Developer agrees and acknowledges that the Council and the Council's agent have rights of access to the Works as may be necessary or convenient in connection with the performance by the Council of any obligations or the exercise of any rights at law under this Agreement, or under the Planning Act or the *Local Government Act 2009* or any other act, including for the purpose of:
 - (1) examining and inspecting the state and condition of any Works, including preparation for work;

- (2) ascertaining whether the Developer's obligations are being observed performed and fulfilled; or
 - (3) performing any works which the Council has agreed or is empowered to perform.
- (b) If the Council exercises its powers referred to in this clause it is to be taken to have indemnified the Developer against all claims for or injury to persons or loss or damage to property which may occur whilst the Council officers or agents authorised by the Council are on the Development Land except where such claims arise from or in connection with the Developer's negligence or breach of duty.

1.7 Access to the Council's land

The Council is to, upon the receipt of a Notice given by the Developer to the Council which states that access is requested to land of which the Council is the owner or which is under the control of the Council, permit the Developer to have access to the land for the following:

- (a) the performance and fulfilment of a Development Obligation;
- (b) the exercise by the Developer of a right.

1.8 Exercise of right of access

- (a) A right of access includes the following:
 - (1) a right to bring machinery, equipment and materials onto the relevant land;
 - (2) a right to effect and install Work which is required and authorised to be performed and fulfilled.
- (b) A party exercising a right of access is:
 - (1) to exercise reasonable care so as not to cause damage or injury to property or a person;
 - (2) taken to be an invitee of the owner and the occupier of the relevant land; and
 - (3) to promptly rectify any damage caused to property.

1.9 No merger on termination

Special Conditions 1.6, 1.7 and 1.8 do not merge on the termination of this Agreement and continue in effect until each party gives to the other party a Notice waiving the benefit of these Special Conditions.

2 Insurance

2.1 Insurances to be effected

The Developer must effect and maintain, or cause to be effected and maintained:

- (a) Public and third party liability insurance as follows:
 - (1) covering claims in respect of:
 - (A) damage to any real or personal property including property owned by the Council; and
 - (B) the injury to, or death of, any person, caused by the carrying out of the Works;
 - (2) for at least \$20 million;
 - (3) noting the interests of the Council and also protecting all subcontractors and agents engaged in connection with the performance of the Works and the Developer's other Development Obligations under this Agreement;
 - (4) for the duration of the carrying out of the Works;
 - (5) on terms and with an insurer approved by the Council, acting reasonably;
- (b) insurance of the Works for their full replacement value in the joint names of the Council and the Developer;
- (c) Worker's Compensation insurance:
 - (1) in accordance with all laws; and
 - (2) for the duration of the carrying out of the Works;
- (d) compulsory third party liability insurance for registered vehicles owned or leased by the Developer:
 - (1) in accordance with the requirements of any compulsory motor vehicle third party legislation;
 - (2) which provides protection to the Council arising out of the use of the Developer's vehicles in addition to the Developer; and
 - (3) for the duration of the carrying out of the Works;
- (e) property damage liability insurance covering all motor vehicles owned, leased or hired by the Developer:
 - (1) used in connection with the Works or the Developer's other Development Obligations under this Agreement including the use of unregistered motor vehicles and plant;
 - (2) with a limit of not less than \$20 million; and
 - (3) for the duration of the carrying out of the Works.

2.2 Requirements of insurance

- (a) The Developer must pay all deductibles in relation to the above insurances.
- (b) Whenever requested by the Council, the Developer must provide to the Council, evidence to the Council's satisfaction of its compliance with Special Condition 2. Evidence may, if requested by the Council, include a full copy of the insurance policy document.

- (c) If the Developer fails to provide evidence of insurance in accordance with paragraph (b), the Council may:
 - (1) immediately suspend the Developer's right to claim any payment for the Works and may direct the Developer to suspend the Works at its cost; and/or
 - (2) effect the insurance itself and the cost will be a debt due and owing from the Developer which the Council can deduct from any security.

3 Indemnity

- (a) Without limiting any other right or remedy of the Council, the Developer indemnifies the Council against:
 - (1) any liability or claim by a third party (including the Developer's employees, agents, and contractors); and
 - (2) all costs (including legal costs), fines, penalties, losses and damages suffered or incurred by the Council,arising directly or indirectly out of or in connection with any:
 - (3) breach of this Agreement; or
 - (4) intentional act or omission; or
 - (5) negligent act or omissionof the Developer or its employees, agents or contractors but the indemnity in this Special Condition will be reduced proportionately to the extent that an intended or negligent act or omission of the Council contributed to the liability, claim, costs, fines, penalties, losses or damages.
- (b) All obligations to indemnify under this Agreement survive termination of this Agreement.

4 Payment of Agreed Amount

The Developer will pay the Agreed Amount to the Council at the time or times specified in the Infrastructure Contributions Schedule.

5 Wastewater Financial Contribution

- (a) The value of a Financial Contribution for wastewater Infrastructure for the future upgrade of the Victoria Point Wastewater Treatment Plant is identified in column 3 of item 2.1 of the the Infrastructure Contributions Schedule (**Wastewater Financial Contribution**).
- (b) The Wastewater Financial Contribution is to be indexed by the Road and Bridge Construction Index from the Commencement Date to the date the

Wastewater Financial Contribution is paid in accordance with column 3 of item 2.1 of the Infrastructure Contributions Schedule.

$$IA = A \times \frac{\text{Index Number (Later Period)}}{\text{Index Number (Base Period)}}$$

Where:

IA is the indexed amount.

A is the Wastewater Financial Contribution.

Index Number (Base Period) is the index number in the Road and Bridge Construction Index that is for the March 2018 quarter.

Index Number (Later Period) is the index number in the Road and Bridge Construction Index that is for the quarter that includes the date that the Wastewater Financial Contribution is paid in accordance with column 3 of item 2.1 of the Infrastructure Contributions Schedule.

6 Infrastructure Offset

6.1 Entitlement to an Infrastructure Offset

The Developer is entitled to an Infrastructure Offset for an Infrastructure Item if the Infrastructure Item is identified in column 6 of the Infrastructure Contributions Schedule as being subject to an Infrastructure Offset.

6.2 Calculation of an Infrastructure Offset

- (a) The value of an Infrastructure Offset is identified in column 6 of the Infrastructure Contributions Schedule.
- (b) The value of the Infrastructure Offset is to be indexed by the Road and Bridge Construction Index from the date the Infrastructure Offset accrues to the date the Infrastructure Offset is claimed in accordance with Special Condition 6.4.

6.3 Timing of accrual of an Infrastructure Offset

The time at which an Infrastructure Offset accrues is:

- (a) for a Work Contribution, unless an alternative time is specified in the Infrastructure Contributions Schedule, the date of completion of the Works; and
- (b) for a Land Contribution, unless an alternative time is specified in the Infrastructure Contributions Schedule, the date the land is provided to the Council.

6.4 Claim of Infrastructure Offset

The Developer may by Notice to the Council reduce its liability for an Agreed Amount for the specific stage being developed by the amount of an Infrastructure Offset. Payment will be made by the Council for Infrastructure Offset balances above the Agreed Amount by electronic transfer or bank cheque to the Developer.

7 Proportionate Liability

The Developer indemnifies the Council on demand by the Council for the difference (if any) between:

- (a) the amount of any losses suffered or incurred by the Council for which, but for the *Civil Liability Act 2003* (Qld) (**Liability Act**), the Council would have been entitled to recover from the Developer arising out of or in connection with an act or omission of the Developer under this Agreement; and
 - (b) the liability of the Developer to the Council as determined by the court pursuant to the Liability Act arising out of or in connection with such act or omission of the Developer.
-

8 Variations

8.1 Variations outside control of Developer

If as a result of any matter outside the control of the Developer it is necessary to make a variation to the designs or specifications of the Works then the costs associated with the variation shall be added to and become part of the value of an Infrastructure Offset identified in column 6 of the Infrastructure Contributions Schedule for that item of Works.

8.2 Estimate

The Developer must as soon as reasonably practical following the Developer becoming aware of the need to undertake a variation of the design or specification of the Works inform the Council of those circumstances and provide the Council an estimate of the costs of the variation. The Council must promptly advise the Developer whether the Council, acting reasonably, accepts the costs of the variation.

8.3 Expert determination

If the Council and the Developer are unable to agree upon the costs of the variation then either party may refer the issue to expert determination under Special Condition 10.

8.4 Rock/poor ground

For the sake of clarity, a circumstance of encountering rock or inferior substratum conditions shall be a matter outside the control of the Developer entitling the

Developer to add the costs associated with the same to the value of an Infrastructure Offset identified in column 6 of the Infrastructure Contributions Schedule for that item of Works.

8.5 Consent not required

Nothing in this clause obliges the Developer to obtain the consent of the Council to undertake a variation prior to undertaking the works but if the Developer does not do so the Developer will have no Claim against the Council in relation to that variation.

9 GST

9.1 Construction of this clause

In this Special Condition 9:

- (a) a word has the meaning in the GST Act; and
- (b) a reference to GST payable and an input tax credit entitlement include the GST payable by, and the input tax credit entitlement of, the representative member for a GST group of which the entity is a member.

9.2 Payment of GST

- (a) If a party or an entity through which that party acts (**Supplier**) is liable to pay GST on a supply made under or in connection with this Agreement, the recipient is to pay to the Supplier an amount equal to the GST payable by the Supplier.
- (b) The recipient is to pay the amount stated in paragraph (a) in addition to and at the same time that the consideration for the supply is to be provided under this Agreement.
- (c) The Supplier is to deliver a tax invoice or an adjustment note to the recipient before the Supplier is entitled to the payment of the amount stated in paragraph (a).
- (d) The recipient may withhold the payment of the amount stated in paragraph (a) until the Supplier provides a tax invoice or an adjustment note, as appropriate.
- (e) If an adjustment event arises in respect of a taxable supply made by a Supplier under this Agreement, the amount payable by the recipient is to be recalculated to reflect the adjustment event and a payment is to be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.
- (f) The parties are to do all things including producing a tax invoice and other documents which may be necessary or desirable to enable or help each other party to claim an input tax credit, set-off, rebate or refund for an amount of GST for a supply under this Agreement.

9.3 Reimbursable cost

If a party is required to pay for a cost of any other party (**Reimbursable Cost**), the amount to be paid is the amount of the Reimbursable Cost net of an input tax credit or reduced input tax credit to which the other party is entitled for the Reimbursable Cost.

9.4 Indemnified cost

If a party has the benefit of an indemnity for a cost (**Indemnified Cost**), the indemnity is for the Indemnified Cost net of an input tax credit or reduced input tax credit to which that party is entitled for the Indemnified Cost.

9.5 Stated amount

An amount stated in this Agreement is exclusive of GST unless otherwise expressly stated.

9.6 No merger on termination

Clause 9 does not merge on the termination of this Agreement and continues in effect until each party gives to each other party a Notice waiving the benefit of the clause.

10 Dispute Resolution

10.1 Reference of dispute

If the parties have any dispute or difference as to the performance of this Agreement, or arising out of this Agreement, that dispute or difference must be referred by a party for determination by a person (**Determinator**) under Special Conditions 10.2 to 10.4.

10.2 First Determination Notice

When a party decides to refer any dispute or difference for determination it must do so by Notice (**First Determination Notice**) to the other party.

10.3 Contents of First Determination Notice

The First Determination Notice must specify the following:

- (a) the name, address and occupation of a Determinator nominated by the party giving the First Determination Notice (**Nominated Determinator**); and
- (b) a nomination of a specified class of Determinators, being one of the classes specified in the left column of the paragraphs in Special Condition 10.7; and
- (c) complete particulars of the dispute or difference to ensure that all expert determinations under this Agreement, can be expeditiously and fully completed.

10.4 Second Determination Notice

Unless within 14 Calendar Days of receipt of the First Determination Notice, the other party gives Notice (**Second Determination Notice**) to the party giving the First Determination Notice, the Nominated Determinator must be the Determinator.

10.5 Default appointment

The Second Determination Notice may reject the Nominated Determinator but accept the specific class of determinator specified in the First Determination Notice, in which event the Determinator must be:

- (a) a member of the class of persons specified in the First Determination Notice; and
- (b) appointed by the president of the appropriate institute or association in accordance with the relevant part of Special Condition 10.7.

10.6 President to appoint

If the Second Determination Notice rejects the specific class of Determinator specified in the First Determination Notice, the question of the appropriate class of Determinator must be referred, at the request of any party, to a mediator appointed by the President for the time being of the Queensland Law Society Inc., whose decision as to the class of persons from which the Determinator will be appointed, must be final and binding upon the parties, and either party may request the president of the appropriate institute or association to appoint the Determinator.

10.7 Classes of Determinator

Failing agreement to the contrary, where any dispute or difference is referred for determination, the Determinator must be appointed by one of the following institutes or associations as is appropriate in the circumstances:

- (a) if an architect: by the President for the time being of the Australian Institute of Architects, Queensland Chapter; or
- (b) if a real estate agent: by the President for the time being of the Real Estate Institute of Queensland; or
- (c) if a quantity surveyor: by the President for the time being of the Institute of Engineers, Australia, Queensland Chapter; or
- (d) if an engineer: by the President for the time being of the Institution of Engineers, Australia, Queensland Chapter; or
- (e) if a mediator: by the President for the time being of the Institute of Arbitrators Australia, Queensland Chapter; or
- (f) if an accountant: by the President for the time being of the Institute of Chartered Accountants, Queensland Division; or
- (g) if an actuary: by the President for the time being of the Actuaries Institute of Australia, Queensland Division; or

- (h) if a valuer: by the President for the time being of the Australian Property Institute, Queensland Division,

10.8 Parties to use best endeavours

When any dispute or difference has been referred for determination, the parties must each:

- (a) use their best endeavours to make available to the Determinator all facts and circumstances which the Determinator requires in order to settle or determine the dispute or difference; and
- (b) ensure that their respective employees, agents or consultants are available to appear at any hearing or enquiry called for, by the Determinator.

10.9 Right to be heard

The parties each have the right to:

- (a) make submissions to; and
 - (b) be heard by,
- the Determinator.

10.10 Determinator's decision

The decision of the Determinator must be made and delivered to the parties within a period of 5 Business Days (or such other period as the parties may agree, or the Determinator may determine) after the date of submission of the dispute or difference to the Determinator.

10.11 Determinator may appoint other expert to assist

The Determinator may with the consent of the parties (and must if required by a party) appoint any other expert (being a member of an institute or association specified in Special Condition 10.7) to consult with, assist and advise the Determinator. The cost of such other expert is deemed to form part of the determination costs and expenses.

10.12 Determinator to act as an expert

The Determinator must act as an expert, not as an arbitrator, and the Determinator's decision will be final and binding upon the parties.

10.13 Costs of determination

The Determinator must also determine:

- (a) the amount of costs and expenses of, and relating to, the reference of any dispute or difference to the Determinator; and
- (b) which party or parties must bear the costs and expenses, and in what shares, and in making the determination, the Determinator must take into account the reasonableness of the parties leading up to the expert determination.

10.14 Conduct pending expert determination

In the event of any dispute being referred for the decision of a Determinator as provided under Special Condition 10:

- (a) if it is possible to do so, the construction of the Works must proceed pending the decision; and
- (b) if either party is challenging any payment claimed by the other:
 - (1) so much of that payment (as is admitted to owing) must be paid immediately, and
 - (2) an appropriate adjustment must be made within 14 Calendar Days of the Determinator's decision.

Schedule 2 – Development Details

1 Development Details

1.1 Prescribed Application

Description	Council Project Number
Development application for reconfiguring a lot (3 into 270 standard format lots, road, stormwater management lots and park over 8 stages)	ROL 005912

1.2 Development Land

Address	Lot	Plan Number	Area (Ha)	No of proposed lots
21-29 and 31 Clay Gully Road and 39 Brendan Way, Victoria Point Qld 4165	4	RP57455	22.793 hectares	270 residential lots
	1	RP9513		
	1	RP72635		

1.3 Infrastructure Contributions Schedule

Column 1 Item Number	Column 2 Infrastructure Contribution	Column 3 Desired Standards for provision of the Infrastructure Contribution	Column 4 Timing of provision of the Infrastructure Contribution	Column 5 Provider of the Infrastructure Contribution	Column 6 Infrastructure Offset
1	Financial Contribution				
1.1	Financial Contribution for the Proposed Development in the Agreed Amount.	The Agreed Amount is to be calculated in accordance with the Infrastructure Charging Instrument applicable at the time of payment.	Prior to the Approval of a Plan of Subdivision or the commencement of the use of each stage of the Proposed Development, whichever comes first.	Developer	This Infrastructure Contribution is not subject to an Infrastructure Offset.
2	Wastewater Infrastructure				
2.1	Financial Contribution for wastewater Infrastructure for the future upgrade of the Victoria Point Wastewater Treatment Plant.	The Financial Contribution is to comprise the provision of \$1,348.00 per lot for wastewater Infrastructure for the future upgrade of the Victoria Point Wastewater Treatment Plant.	The Financial Contribution is to be paid on a pro rata basis equal to the number of lots depicted on a Plan of Subdivision, prior to the Approval of a Subdivision Plan for each stage of the Development.	Developer	This Infrastructure Contribution is not subject to an Infrastructure Offset.

Column 1 Item Number	Column 2 Infrastructure Contribution	Column 3 Desired Standards for provision of the Infrastructure Contribution	Column 4 Timing of provision of the Infrastructure Contribution	Column 5 Provider of the Infrastructure Contribution	Column 6 Infrastructure Offset
2.2	<p>Work Contribution for wastewater Infrastructure being the design and construction of a sewer gravity main from point A to point B on the plan titled "External Sewer Layout RCC Proposal to Abandon SPS 118", drawing number 7968-AD, prepared by Sheehy & Partners in Schedule 3 with capability to decommission the existing pump station PS118 in the Priority Infrastructure Plan (on map S5) in the Planning Scheme and the Council's Adopted Infrastructure Charges Resolution (No. 2.3) 2016.</p>	<p>The Work Contribution is to comprise the provision of work for the following wastewater Infrastructure:</p> <p>(a) a 300mm diameter sewer gravity main from point A to point B on the plan titled "External Sewer Layout RCC Proposal to Abandon SPS 118", drawing number 7968-AD, prepared by Sheehy & Partners in Schedule 3 with capability to decommission the existing pump station PS118 in the Priority Infrastructure Plan (on map S5) in the Planning Scheme and the Council's Adopted Infrastructure Charges Resolution (No. 2.3)</p>	<p><i>Number of lots on a Plan of Subdivision x \$1,348.00 = Financial Contribution</i></p> <p>Prior to the Approval of a Plan of Subdivision or the commencement of the use of Stage 3 of the Proposed Development, whichever comes first.</p>	Developer	This Infrastructure Contribution is not subject to an Infrastructure Offset.

Column 1 Item Number	Column 2 Infrastructure Contribution	Column 3 Desired Standards for provision of the Infrastructure Contribution	Column 4 Timing of provision of the Infrastructure Contribution	Column 5 Provider of the Infrastructure Contribution	Column 6 Infrastructure Offset
2.3	Land Contribution for wastewater Infrastructure being a sewer gravity main from point A to point B on the plan titled "External Sewer Layout RCC Proposal to Abandon SPS 118", drawing number 7968-AD, prepared by Sheehy & Partners in Schedule 3.	2016; (b) pipes, valves and connections and temporary power supply and all other works necessary to operate the sewer gravity main. The Land Contribution is to comprise the provision of land for an easement of a minimum width of 4 metres for wastewater Infrastructure being a sewer gravity main from point A to point B on the plan titled "External Sewer Layout RCC Proposal to Abandon SPS 118", drawing number 7968-AD, prepared by Sheehy & Partners in Schedule 3.	Prior to the Approval of a Plan of Subdivision or the commencement of the use of Stage 3 of the Proposed Development, whichever comes first.	Developer	This Infrastructure Contribution is not subject to an Infrastructure Offset.
3	Road crossing treatments				
3.1	Work Contribution for road crossing treatments to facilitate safe fauna movement opportunities, in	The Work Contribution is to comprise the provision of road crossing treatments to be generally in accordance with the following	Prior to the Approval of a Plan of Subdivision or the commencement of the use of Stage 8 of the	Developer	This Infrastructure Contribution is not subject to an Infrastructure

Column 1 Item Number	Column 2 Infrastructure Contribution	Column 3 Desired Standards for provision of the Infrastructure Contribution	Column 4 Timing of provision of the Infrastructure Contribution	Column 5 Provider of the Infrastructure Contribution	Column 6 Infrastructure Offset
	<p>accordance with a detailed road crossing treatment plan to be submitted to the Council as a part of an Application for an Approval for operational work for Stage 8 of the Proposed Development.</p>	<p>requirements:</p> <p>(a) design and construct a dedicated grade separated road crossing treatment that comprises either:</p> <p>i. the design of two sub-road spaces, e.g. culverts of a minimum size of 2.4m high by 3m wide and the construction of one of these sub-road spaces on the Development Land (“underpass”).</p> <p><i>Note: only one of these sub-road spaces is required to be provided by the Proposed Development; or</i></p> <p>ii. a single bebo arch (minimum size of 6m wide by 2.4m in height);</p> <p>(c) set the underpass within the central part of the ultimate 80m corridor width;</p> <p>(d) incorporate within the underpass a dedicated koala</p>	<p>Proposed Development, whichever comes first.</p>		<p>Offset.</p>

Column 1 Item Number	Column 2 Infrastructure Contribution	Column 3 Desired Standards for provision of the Infrastructure Contribution	Column 4 Timing of provision of the Infrastructure Contribution	Column 5 Provider of the Infrastructure Contribution	Column 6 Infrastructure Offset
		<p>“boardwalk”, i.e. a line of raised interconnecting logs which mirrors the length of the underpass to reduce the threat of predation;</p> <p>(e) establish vegetation to provide some protective cover on the approach and exit of the underpass, which does not obstruct access to or the view of the underpass entrance;</p> <p>(f) include in the underpass an earthen or gravel floor (preferred) or a concrete floor, which are designed to be well drained (avoid water pooling);</p> <p>(g) install koala refuge poles at strategic locations near the approach and exit points of the underpass and maintain until suitable tree cover develops;</p> <p>(h) establish directional (exclusion) fencing on either side of the underpass;</p> <p>(i) establish fauna movement awareness signs and other</p>			

Column 1 Item Number	Column 2 Infrastructure Contribution	Column 3 Desired Standards for provision of the Infrastructure Contribution	Column 4 Timing of provision of the Infrastructure Contribution	Column 5 Provider of the Infrastructure Contribution	Column 6 Infrastructure Offset
		<p>awareness heightening treatments such as the use of cat's eye road reflectors;</p> <p>(j) design all roads adjacent to or crossing the vegetated habitat corridor to support speed limits no greater than 50 kph (posted speed limit);</p> <p>(k) incorporate speed reduction or other traffic calming devices (e.g. speed bumps, roundabouts, and chicanes) within the design of roads adjacent to, or crossing the vegetated habitat corridor.</p>			

Schedule 3 – Drawings

- LEGEND**
- REVELOPMENT BOUNDARY
 - EXISTING SURFACE CONTOURS
 - PROPOSED SURFACE CONTOURS
 - CONSERVATION AREA
 - COUNCIL LAND
 - EXISTING SEWER
 - PROPOSED SEWER
 - PROPOSED SEWER
 - PASSTERN STRUCTURE PLAN LIX



SPONSOR
AUSBUILD

PROJECT
CLAY GULLY ROAD

SCALE	AS SHOWN
1:100	30
1:200	60
1:500	150
1:1000	300
1:2000	600
1:4000	1200



PLANNING

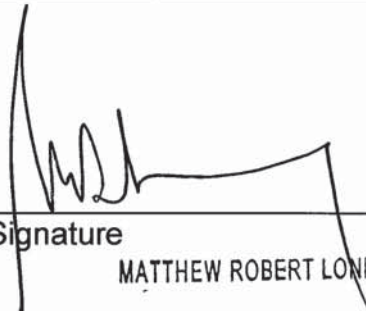
**EXTERNAL SEWER LAYOUT
 RCC PROPOSAL TO ABANDON SPS 118**

7968-AD

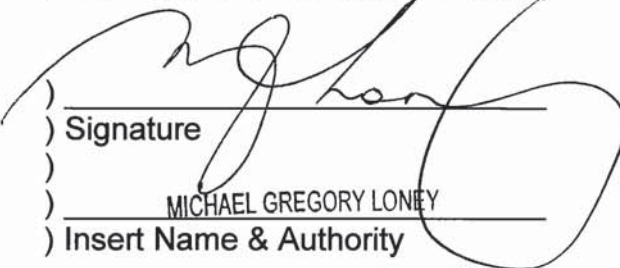
REVISED: 12/13
 DRAWN: 11/13
 CHECKED: 10/13
 SCALE: AS SHOWN

Executed as an agreement:

Signed by **Ausbuild Pty Ltd**
ACN 010 138 860
in accordance with s.127
Corporations Act 2001


) 
) _____
) Signature
) **MATTHEW ROBERT LONEY**
) _____
) Insert Name & Director / Secretary

In the presence of:-


) 
) _____
) Signature
) **MICHAEL GREGORY LONEY**
) _____
) Insert Name & Authority

Date:- 16 February 2018

Signed for and on behalf of:-
Redland City Council

) 
) _____
) Signature
) **Group Manager City Planning
& Assessment.**
) _____
) Insert Name & Authority

In the presence of:-

) 
) _____
) Signature
) **EMMA MARTIN**
) _____
) Insert Name & Authority

Date:- 7 MARCH 2018

DATED

February 2018

AUSBUILD PTY LTD
ACN 010 138 860

and

REDLAND CITY COUNCIL

AGREEMENT



COOPER GRACE WARD

LAWYERS

Our ref: VLT:MRF 10203627

25 February 2020

Chief Executive Officer
Redland City Council
PO BOX 21
Cleveland QLD 4163

REGISTERED POST

Dear Sir

**Clay Gully Pty Ltd ACN 627 052 224 v Redlands City Council – Planning and Environment Court
Appeal No. 566 of 2020**

We act for the Appellant in respect of the above proceeding.

Please find **enclosed**, by way of service, our client's Notice of Appeal which was filed in the Planning and Environment Court's Registry today, 25 February 2020.

The grounds of the appeal are as set out in the Notice of Appeal.

Please direct all future correspondence regarding this matter to us.

Yours faithfully
COOPER GRACE WARD

Vanessa Thompson
Senior Associate
T 61 7 3231 2403
E vanessa.thompson@cgw.com.au

Received

27 FEB 2020

DECIPHAT

Level 21, 400 George Street
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Leanne O'Neill
Partner

CEW10203627 3468-6095-9759v1



In the Planning and Environment Court
Held at: Brisbane

No. **PE 562** of 2020

Between: **CLAY GULLY PTY LTD ACN 627 052 224**

Appellant

And: **REDLAND CITY COUNCIL**

Respondent

NOTICE OF APPEAL

Filed on 25 February 2020

Filed by: Cooper Grace Ward
Service address: Level 21, 400 George Street
Brisbane QLD 4000

Phone: 07 3231 2571
Fax: 07 3221 4356
Email: leanne.oneill@cgw.com.au

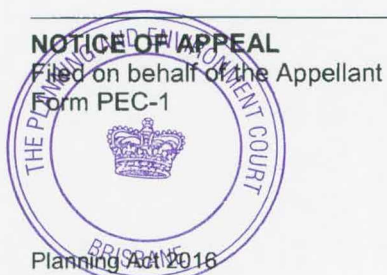
CLAY GULLY PTY LTD ACN 627 052 224 of c/- Cooper Grace Ward Lawyers, Level 21, 400 George Street, Brisbane in the State of Queensland, appeals to the Planning and Environment Court in Brisbane under section 229 and Schedule 1, Table 1, Item 1 of the *Planning Act 2016 (Planning Act)* against the Respondent's deemed refusal of a development application (Council reference ROL005912) for a development permit for a reconfiguration of a lot by standard format plan (3 into 289 lots over 7 stages, new road and park) (**Development Application**) made under the *Sustainable Planning Act 2009 (SPA)* in respect of land situated at 39 Brendan Way, 21 to 29 and 31 Clay Gully Road, Victoria Point in the State of Queensland and more particularly described as Lot 1 on RP72635, Lot 4 on RP57455 and Lot 1 on RP95513 (**Land**).

The Appellant seeks the following orders or judgment:

1. that the appeal be allowed;
2. the Development Application be approved; and
3. such further or other orders as the Court deems appropriate.

The grounds of appeal are:

1. The Appellant is the registered owner of part of the Land and the current proponent of the Development Application. The registered owner of the balance of the Land consented to the lodgement of the Development Application.
2. The Land the subject of the appeal:



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Level 21, 400 George Street
Brisbane QLD 4000

Phone: 07 3231 2571
Fax: 07 3221 4356
Email: leanne.oneill@cgw.com.au
Ref: VLT:MRF 10203627

- (a) comprises 3 lots currently used for rural residential purposes, improved by a detached dwelling, associated outbuildings and two small farming dams;
 - (b) has a total area of approximately 22.793 hectares.
3. At the time the Development Application was made, the Land was:
- (a) within the Urban Footprint designation under the *South-East Queensland Regional Plan 2009-2031*;
 - (b) subject to the *Redlands Planning Scheme* (version 6.2), under which the Land was:
 - (i) within the Rural Non-Urban Zone;
 - (ii) subject to the following overlays:
 - (A) Acid Sulphate Soils Overlay;
 - (B) Bushfire Hazard Overlay;
 - (C) Flood Prone, Storm Tide and Drainage Constrained Land Overlay;
 - (D) Habitat Protection Overlay;
 - (E) Protection of the Poultry Industry Overlay; and
 - (F) Waterways, Wetlands and Moreton Bay Overlay;
 - (c) located within the Priority Koala Assessable Development Area and identified as containing habitat suitable for medium value rehabilitation under the *South East Queensland Koala Conservation SPRP*.
4. The Land is currently:
- (a) located within the Regional Land Use designation under the *South East Queensland Regional Plan 2017*;
 - (b) subject to the *Redland City Plan* (version 2), under which the Land is:
 - (i) within the Emerging Community Zone;
 - (ii) subject to the following overlays:
 - (A) Bushfire Hazard Overlay;
-

- (B) Environmental Significance Overlay; and
 - (C) Flood and Storm Tide Hazard;
- (c) located within the Priority Koala Assessable Development Area that is identified as containing habitat suitable for medium value rehabilitation under the Planning Act.
5. On or about 30 March 2015, the Development Application, in accordance with statutory requirements and supported by detailed assessments and reports including a proposed Clay Gully Structure Plan, was lodged with the Respondent.
 6. The Development Application was:
 - (a) subject to impact assessment;
 - (b) referable to the Department of State Development, Infrastructure and Planning (**DSDIP**) (as it was then known) as a concurrence agency.
 7. On 15 April 2015, the Respondent issued an Acknowledgement Notice in relation to the Development Application.
 8. On 24 April 2015, the Respondent issued an Information Request.
 9. On 4 May 2015, the DSDIP issued an Information Request.
 10. On 23 October 2015, the Respondent agreed to extend the period to respond to its Information Request until 25 January 2016.
 11. On 27 October 2015, a request to extend the period to respond to the Department of Infrastructure, Local Government and Planning's (**DILGP**) (as it was then known) Information Request to 25 January 2016 was made.
 12. On 16 November 2015, responses to the Respondent's Information Request and DILGP's Information Requests (in full) were provided. The responses included changes to the Development Application to amend the plans of reconfiguration and staging plan, together with further proposed structure planning information.
 13. Between 19 November 2015 and 11 December 2015, the Development Application was publicly notified.
 14. According to the Respondent's records, the Respondent received 354 properly made submissions in respect of the Development Application.
-

15. On 15 January 2016, the DILGP extended its referral agency assessment period to 17 February 2016.
 16. On 29 January 2016, the DILGP issued a Further Information Request.
 17. On 11 February 2016, the Respondent issued a Further Information Request.
 18. On 11 February 2016, the DILGP extended its referral agency assessment period to 17 March 2016.
 19. On 10 March 2016, the DILGP extended its referral agency assessment period to 18 April 2016.
 20. On 14 April 2016, the DILGP extended its referral agency assessment period to 18 May 2016.
 21. On 16 May 2016, the DILGP extended its referral agency assessment period to 15 June 2016.
 22. On 13 June 2016, the DILGP extended its referral agency assessment period to 12 July 2016.
 23. On 25 August 2016, the DILGP extended its referral agency assessment period to 24 October 2016.
 24. On 2 November 2016, response to the Respondent's Further Information Request and DILGP's Further Information Request (in full) were provided. The responses included changes to the Development Application to amend the plans of reconfiguration and staging plan, together with further assessment and reports regarding proposed structure planning.
 25. On 23 November 2016, the DILGP issued a Further Information Request.
 26. On 5 December 2016, a response to the DILGP's Further Information Request (in full) was provided.
 27. On 15 December 2016, the DILGP issued its concurrence agency response.
 28. On 28 February 2017, the Respondent issued a Further Information Request.
 29. On 4 July 2017, a response to the Respondent's Further Information Request (in full) was provided. It included further assessment and reports regarding proposed structure planning.
-

30. On 18 July 2017, the Respondent was given notice of a minor change to the Development Application pursuant to section 350 of the SPA, which:
 - (a) amended the plans of reconfiguration and staging plans;
 - (b) increased the lots being created from 266 to 285 lots;
 - (c) increased the number of stages from 7 to 8; and
 - (d) consolidated the open space areas.
 31. On or about 30 October 2017, part of the Land (Lot 1 on RP72635) was subdivided into two lots to create Lots 1 and 2 on SP292896.
 32. On 13 November 2017, representations were made to the DILGP in respect of amending its concurrence agency response.
 33. On 22 November 2017, the DILGP issued its amended concurrence agency response and conditions.
 34. On or about 23 November 2017, the Respondent's decision-making period commenced.
 35. The Respondent has not issued a decision notice or notices extending or requesting to extend the decision-making period.
 36. On or about 18 January 2018, in accordance with the *Development Assessment Rules*, the Respondent's decision-making period ended.
 37. On or about 7 March 2018, an infrastructure agreement was entered into by the Respondent and former land owner (Ausbuild Pty Ltd) regarding the Land and proposed development.
 38. On or about 17 July 2018, the Appellant became the registered owner of part of the Land, being Lot 1 on SP292896, Lot 4 on RP57455 and Lot 1 on RP95513.
 39. On 21 March 2018, at a general meeting of the Respondent, a recommendation for approval of the Development Application (including proposed conditions) was presented to the Respondent. It deferred its decision until a 'Council led Structure Plan' is complete.
 40. The Respondent has failed or refused to decide the Development Application within the decision-making period and is thereby deemed to have refused the Development Application.
-

41. The Appellant appeals the Respondent's deemed refusal of the Development Application because the Development Application satisfies the requirements for approval contained in chapter 6, part 5, division 2 and 3 of the SPA (and chapter 3, part 3, division 2 of the Planning Act) and should have been approved by the Respondent.
 42. The Development Application complies or can be conditioned to comply with relevant planning instruments and assessment benchmarks. This was confirmed by the Respondent's planning officer's, responsible for assessing the Development Application, who recommended approval following a lengthy and detailed development assessment process.
 43. Structure planning and other assessments undertaken by the applicant during the Development Application process demonstrate the proposed development:
 - (a) can be appropriately serviced by infrastructure;
 - (b) would not result in any adverse impacts, including on:
 - (i) environmental values;
 - (ii) amenity;
 - (iii) stormwater quality and quantity; or
 - (iv) traffic;
 - (c) represents a positive planning outcome for the Land and the locality;
 - (d) is in the public interest in that it satisfies a planning, community and economic need in the locality;
 - (e) is timely and functional.
 44. Having regard to Chapter 3 of the *Planning Act 2016*, the Development Application the subject of this appeal should be approved.
 45. In the premises, the Appellant seeks the following orders or judgment:
 - (a) that the appeal be allowed;
 - (b) the Development Application be approved; and
 - (c) such further or other orders as the Court deems appropriate.
-

Cooper Grace Ward
.....
Cooper Grace Ward Lawyers
Solicitors for the Appellant

If you are named as a respondent in this notice of appeal and wish to be heard in this appeal you must:

- (a) within 10 business days after being served with a copy of this Notice of Appeal, file an Entry of Appearance in the Registry where this notice of appeal was filed or where the court file is kept; and
- (b) serve a copy of the Entry of Appearance on each other party.

The Entry of Appearance should be in Form PEC – 5 for the Planning and Environment Court.

If you are entitled to elect to be a party to this appeal and you wish to be heard in this appeal you must:

- (a) within 10 business days of receipt of this Notice of Appeal, file a Notice of Election in the Registry where this Notice of Appeal was filed or where the court file is kept; and
- (b) serve a copy of the Notice of Election on each other party.

The Notice of Election should be in Form PEC – 6 for the Planning and Environment Court.

8 AK



In the Planning and Environment Court
Held at: Brisbane

No. 566 of 2020

Between: **CLAY GULLY PTY LTD ACN 627 052 224** Appellant

And: **REDLAND CITY COUNCIL** Respondent

And: **EDGARANGE PTY LTD** Co-Respondent by election

ORDER

Before His Honour Judge Jones
Date of Hearing: 17 April 2020
Date of Order: 17 April 2020

UPON THE COURT BEING SATISFIED THAT:

1. To the extent there has been any non-compliance with the provisions of the *Planning Act 2016* (**Planning Act**) in relation to service of the Notice of Appeal (wherein service letters to certain submitters have been returned marked 'return to sender' and alternate service addresses were unable to be ascertained) any such non-compliance is excused pursuant to section 37 of the Planning Act.

IT IS ORDERED THAT:

2. In relation to the matters dealt with in paragraphs 18 to 21 of the Affidavit of Kathryn Sophie O'Hare affirmed on 3 April 2020, to the extent it is required, the time for re-serving submitters (where original service letters have been returned marked 'return to sender' and alternate addresses have been ascertained) be enlarged to 31 March 2020.
3. On or before 1 May 2020, the Respondent:
 - (a) is to notify the parties whether it contends the development application the subject of this appeal should be approved or refused;
 - (b) if it is contended the development application should be refused, is to file and serve its Consolidated Reasons for Refusal; and
 - (c) if it is contended the development application should be approved, is to provide draft conditions of approval it contends should be imposed.



ORDER
Filed on behalf of the Appellant
PEC-Form 7

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Ref: VLT:MRF 10203627

[Handwritten signature]
17/4/20

4. In the event that the Council is unable to comply with Order 3, then by 30 April 2020, the Council is to notify the other parties and such notification is to include an affidavit which goes to why it cannot be achieved.
5. The matter be listed for further review on 8 May 2020.

Filed on 17 April 2020

Filed by: Cooper Grace Ward
Service address: Level 21, 400 George Street
Brisbane QLD 4000

Phone: 07 3231 2571
Fax: 07 3231 4356
Email: leanne.oneill@cgw.com.au

Registrar

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PROJECT
 CLAY GULLY ROAD

CLIENT
 AUSBUILD

- KEY PLAN / NOTES**
- SITE BOUNDARY
 - - - STAGING BOUNDARY
 - OPEN SPACE/PARK/STORMWATER
 - ▨ EXISTING ACCESS EASEMENT
 - ▨ PROPOSED ACCESS EASEMENT
 - ▨ PROPOSED COVENANT FOR OPEN SPACE CORRIDOR

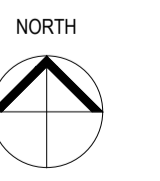
NOT FOR CONSTRUCTION

ISSUE	CODE	ISSUE DESCRIPTION	BY	CHK	DATE
A	PRE	PRELIMINARY ROL PLAN	CA	LM	25-03-2015
B	PRE	PRELIMINARY ROL PLAN	CA	LM	29-07-2015
C	PRE	PRELIMINARY ROL PLAN	CA	LM	11-08-2015
D	PRE	PRELIMINARY ROL PLAN	CA	LM	12-12-2015
E	PRE	PRELIMINARY ROL PLAN	JB	CA	21-01-2016
F	PRE	PRELIMINARY ROL PLAN	JB	CA	01-03-2016
G	PRE	PRELIMINARY ROL PLAN	JB	CA	02-03-2016
H	PRE	PRELIMINARY ROL PLAN	JB	CA	07-03-2016
I	PRE	PRELIMINARY ROL PLAN	EM	CA	24-03-2016
J	PRE	PRELIMINARY ROL PLAN	EM	CA	26-09-2017
K	PRE	PRELIMINARY ROL PLAN	JW	CA	06-11-2017

DRAWING TITLE

ROL PLAN

DESIGN : CA
 DOCUMENT : CA
 PROJECT : ASB32



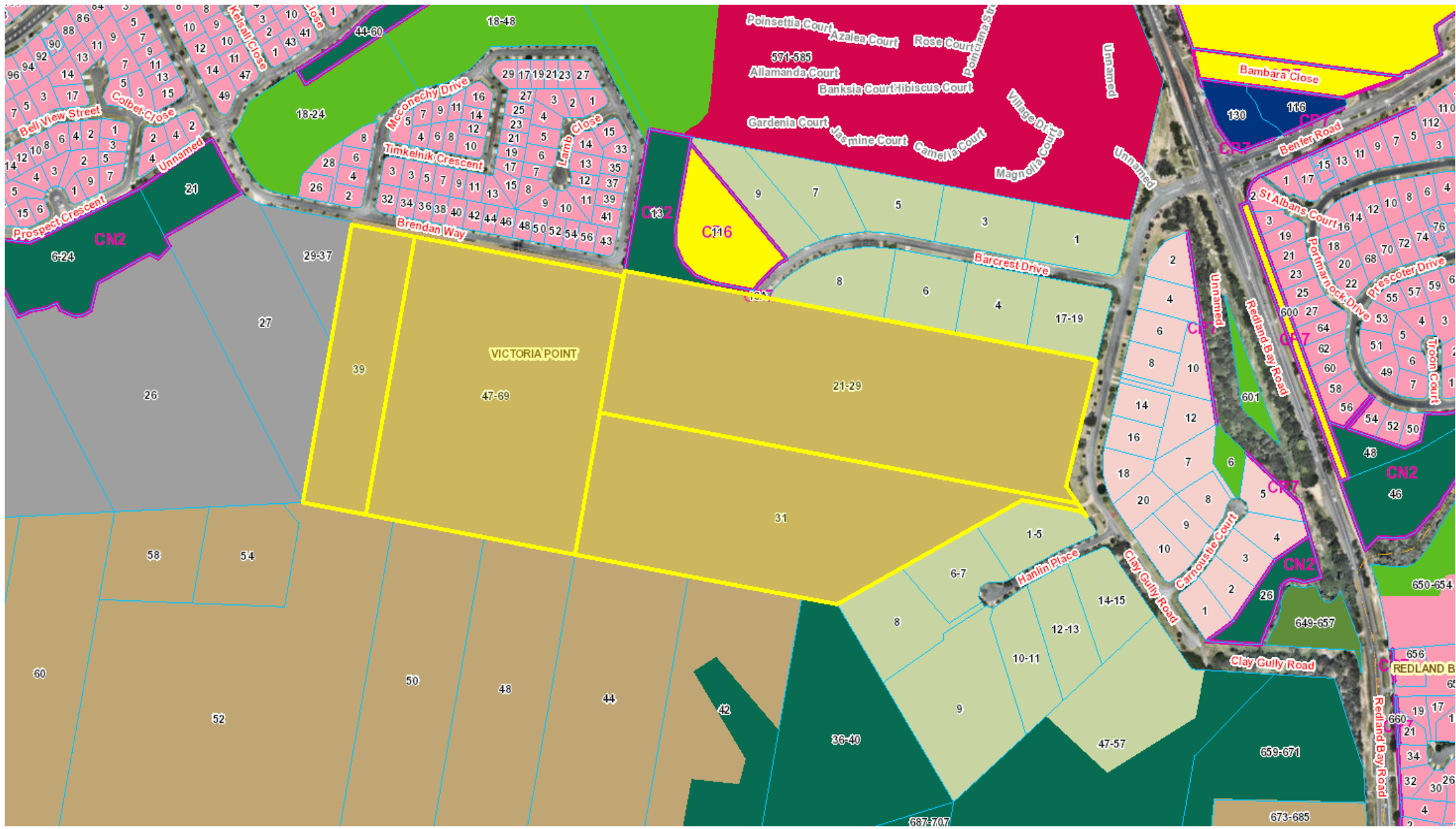
SCALE 1:1500 @ A1 1:3000 @ A3

SHEET NUMBER ASB32-SK01 REVISION K

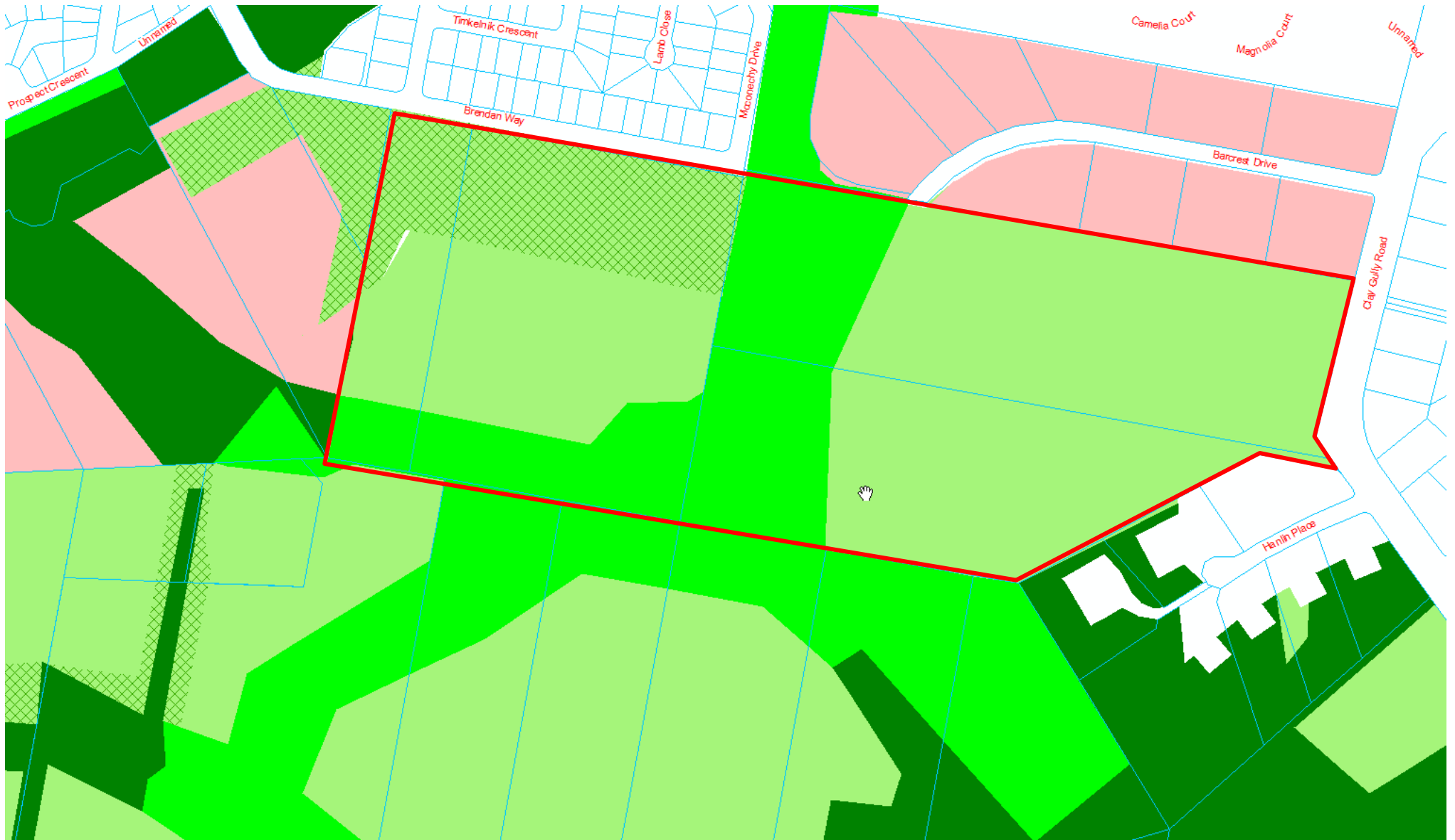


YIELD AND MIX															
Average width	12.5m		14m		16m		14m		16m		20-25m	Vendor Lots	TOTAL		
Average depth	29-31m		29-31m		29-31m		28m		28m		31-42m				
Average size	401sqm		435sqm		505sqm		411sqm		459sqm		725sqm	2949sqm			
STAGE 1	1	3%	7	18%	3	8%	11	28%	6	15%	8	20%	4	10%	40
STAGE 2	7	15%	21	0%	9	19%	6	13%	2	4%	0	0%	2	4%	47
STAGE 3	2	6%	4	12%	4	12%	4	12%	10	29%	10	29%	0	0%	34
STAGE 4	5	14%	11	31%	17	49%	0	0%	1	3%	1	3%	0	0%	35
STAGE 5	6	17%	10	28%	5	14%	8	22%	6	17%	1	3%	0	0%	36
STAGE 6	0	0%	16	47%	10	29%	7	21%	1	3%	0	0%	0	0%	34
STAGE 7	10	59%	4	24%	2	12%	0	0%	0	0%	0	0%	1	6%	17
STAGE 8	7	26%	3	11%	4	15%	7	26%	5	19%	1	4%	0	0%	27
YIELD	38	14%	76	28%	54	20%	43	16%	31	11%	21	8%	7	3%	270

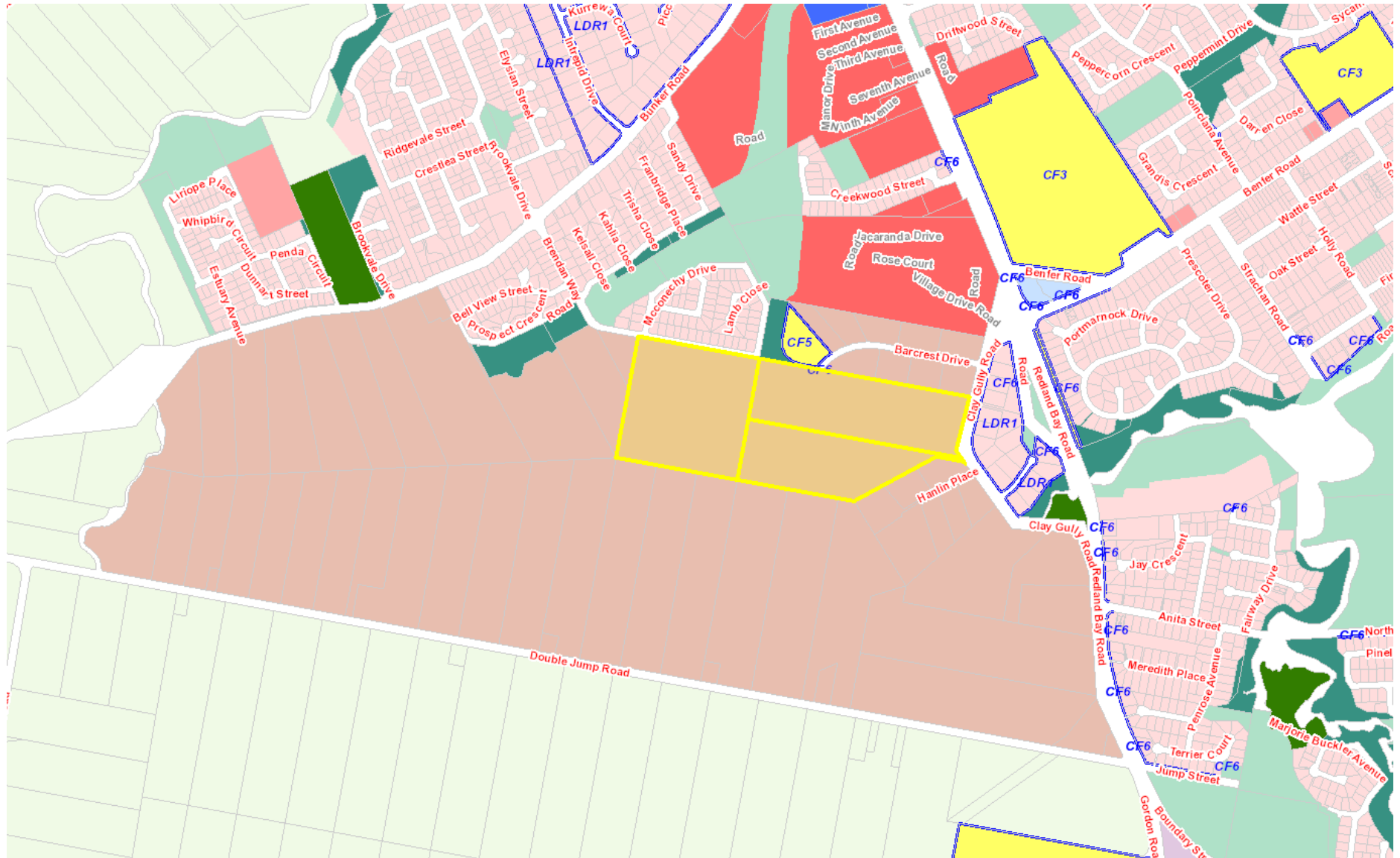
Attachment 8 – Zoning maps – RPS (version 7)



RPS (v7) – Habitat Protection – Bushland overlay



City Plan (Version 4)



Attachment 9 – Reasons for Refusal

1. The development does not provide opportunities for environmental enhancement activities to support significant ecosystems, protect koala habitat and improve natural corridor linkages between bushland areas.
2. The proposed reconfiguration does not adequately provide for the integrated and sequenced delivery of wastewater and transport infrastructure.
3. The proposed reconfiguration does not provide for the necessary upgrades to sewerage treatment plant which are out of sequence with and to a greater capacity than planned for in the Local Government Infrastructure Plan.

Relevant Matters

4. The proposed reconfiguration does not adequately consider the environmental corridors and the provision and sequencing of infrastructure.
5. The proposed reconfiguration and its structure plan do not accord with the Council's coordinated structure planning approach to plan making and the growth of new urban areas within Redland City.
6. The subject land is located outside the Priority Infrastructure Area of the Local Government Infrastructure Plan.
7. The development will require the upgrade of sewerage treatment plants, out of sequence with and to a greater capacity than the upgrade planned for in the Local Government Infrastructure Plan.
8. The extent of the necessary upgrades to infrastructure and the shortfall in bring forward costs have not been adequately addressed. Nor is it known whether these infrastructure costs would be an unreasonable imposition upon the development, such that it ought to be refused.

Advancing the purpose of the Act

9. Approving the development does not advance the purpose of the Planning Act as:
 - (a) It does not take into account the short and long-term environmental effects of the proposed reconfiguration;
 - (b) it does not avoid or otherwise minimise the adverse environmental effects of the proposed reconfiguration; and
 - (c) it does not supply infrastructure in a coordinated, efficient and orderly way.