

19.2 SUTGOLD V REDLAND CITY COUNCIL (PLANNING AND ENVIRONMENT COURT APPEAL 3829/2019)

Objective Reference:

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

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

Report Author: Michael Anderson, Acting Principal Planner

Attachments:

1. General Meeting Report 29 January 2020
2. Reasons for Refusal
3. Consolidated Grounds for Refusal
4. Minor Change Proposed Plans

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 Sutgold Pty Ltd (Sutgold) v Redland City Council (Council) (Planning & Environment Court Appeal 3829/2019) which is a deemed refusal appeal. Council (the respondent) is required to confirm its position on the development application in the Planning & Environment Court appeal by 24 July 2020. It is referred to Council for determination.

BACKGROUND

The Development Application

Council received an application from Sutgold Pty Ltd on 24 March 2017 seeking a development permit for reconfiguring a lot (RAL) (8 lots into 176 lots), park and road – including balance lots for future residential and commercial development on land at 72-74 and 78-82 Double Jump Road and 158-178 Bunker Road, Victoria Point, and more properly described as Lots 20 and 21 RP86773, Lots 12 and 13 on RP86773, Lot 12 on RP898198, Lot 22 on RP86773, Lot 15 on RP86773 and Lot 16 on RP86773 (Council Reference: ROL006166).

The Appeal

The development application was not determined by Council and a deemed refusal appeal was filed. The Notice of Appeal (NOA) was filed with the Planning and Environment Court on 23 October 2019 (3829 of 2019) and following an Order of the Court, Council as Respondent, was required to confirm its position on the development application in the Planning and Environment Court (P & E Court). An assessment of the development application was provided by officers and a report was prepared for consideration at the General Meeting of Council on 29 January 2020. At this meeting Council resolved the following:

1. *To oppose the development application, for the reasons generally in accordance with those identified in Attachment 7.*
2. *To delegate authority to the Chief Executive Officer to finalise the reasons for refusal after consultation with the experts and Counsel advice.*

3. *To instruct its solicitors to notify the parties that it opposes the development application, for the same reasons generally in accordance with those identified in Attachment 7.*
4. *That this report and attachments remain confidential until the conclusion of this appeal, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.*

A copy of the General Meeting Report dated 29 January 2020, including an assessment of the development application is included in **Attachment 1**.

The identified reasons for refusal are included in **Attachment 2**. The Appellant was notified of Council's position in the Appeal on 3 February 2020. Following a request for consolidated grounds of refusal, these were issued on 23 March 2020. The grounds of refusal did not substantively change and are included at **Attachment 3**. The consolidated grounds for refusal can be summarised as relating to:

- environmental values
- walkable neighbourhoods
- medium density residential
- transport
- wastewater
- structure planning.

A series of without prejudice meetings have been held between Council's expert team and those appointed on behalf of the Appellants. The purpose of those meetings was for the experts to understand the areas of concern and to explore possible areas of agreement.

Further to the most recent Order of the Court (dated 5 June 2020) the Appellant applied to the P & E Court for a declaration that the proposed changes to the plan of development be sworn as a minor

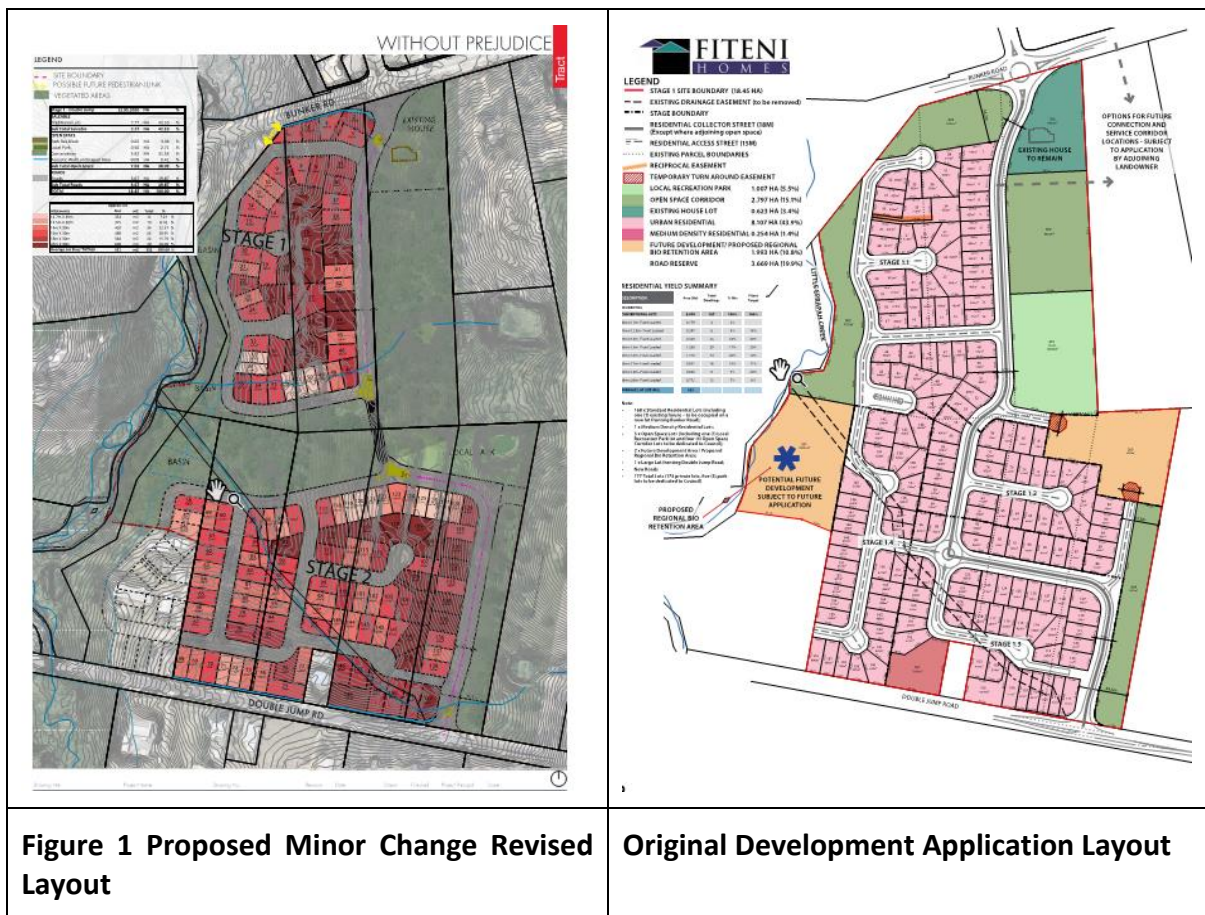
change for the purposes of s46 (3) of the *Planning and Environment Court Act 2016*. The Appellant seeks leave to amend the original plan of development and to be replaced with the revised plans.

The Minor Change

The minor change request comprised the following documents:

- Affidavit from Town Planner
- Affidavit from Ecologist
- Affidavit from Traffic Engineer.

The minor change plans are included within **Attachment 4** and an extract of the proposed minor change layout compared with the layout plan forming part of the original development application is provided below in **Figure 1**.



The changes from the original plans of development to the proposed plans of development are described as follows:

- Reduction in the number of residential lots from 168 to 152;
- Reduction in the area of land to be developed for residential lots from 8.107 ha to 7.7 ha;
- Reduction in the number of cul-de-sacs;
- Change to the composition of allotments (noting 21 of the 152 lots are less than 400m² or approximately 14%);

- Provision of 5 residential lots, acoustic fence along the northern boundary to Bunker Road and new road and parts of proposed lots 9-35 in place of the previously proposed 52.4m wide open space corridor;
- Removal of the medium density lot to Double Jump Road;
- Increase in the number of lots adjoining the residential property fronting Double Jump Road and not forming part of the development application site;
- Change in lot sizes of lots to Double Jump Road;
- Identification of acoustic fence to Double Jump Road;
- Increase in the total area of open space provided from 2.797 ha to 5.82 ha;
- Area of east-west vegetated link through the centre of the site to operate as a fauna habitat;
- A basin, 3 lots and road are now proposed in an area previously identified as potential future development area to the west of the site;
- Road and a local park are proposed in the future development area as originally shown to the west of the site;
- Reduction in land for local recreation park from 1.007 ha to 0.5 ha;
- Introduction of a fauna crossing at grade and subject to traffic calming; and
- Reduction from 4 stages to 2 stages.

Council Officers advised the Appellant on 15 July 2020 that it does not oppose the Appellant seeking leave from the Court to replace the original development application plan with the revised plan forming part of the minor change request.

ISSUES

Proposal

As originally submitted the development application proposed 166 low density residential lots including one (1) existing house to be occupied on a new lot to Bunker road, three (3) medium density residential lots, one (1) local centre, four (4) open space lots (including one (1) local recreation park and three (3) open space corridor lots to be dedicated to Council, one (1) potential future development area/proposed regional bio retention area and new road.

The plans subject to the minor change request propose 152 residential lots, one (1) local recreation park and open space corridors to be dedicated to Council.

Site & Locality

The subject site is situated in Victoria Point. The site is bounded by Bunker Road, vegetation and residential properties to the north. Vegetation and rural land uses exist to the east, south and west. The site has frontage to Double Jump Road to the south.

Assessment Framework

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>Redlands Planning Scheme (RPS) (Version 7.1)</p> <ul style="list-style-type: none"> • Desired environmental outcomes • Rural non-urban zone code • Conservation zone code • Environmental protection zone • 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 • Road and rail noise impact overlay code • Landslide hazard 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
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	<p>City Plan (V4)</p> <ul style="list-style-type: none"> • Strategic framework • Emerging community zone code • Bushfire hazard overlay code • Environmental significance overlay code • Flood and storm tide hazard overlay code • Landslide hazard overlay code • Healthy waters code • Infrastructure works code • Landscape code • Reconfiguring a lot code • Transport, servicing, access and parking code
Matters prescribed by Regulation	<ul style="list-style-type: none"> • <i>State Planning Policy 2017</i> • SEQ Regional Plan 2009 (relevant at time of lodgement) • <i>SEQ Regional Plan 2017</i> • Planning Regulation, Schedule 11, Part 2, Section 6
Other relevant matters	<ul style="list-style-type: none"> • Draft Major Amendment Package (05/19): South West Victoria Point Local Plan

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

An assessment of the original development application and General Meeting Report dated 29 January 2020, including an assessment of the development application is included in **Attachment 1**.

The identified reasons for refusal are included in **Attachment 2** and consolidated reasons for refusal are included in **Attachment 3**.

The following assessment assesses the changes proposed within the minor change request and whether these sufficiently address Council's identified reasons for refusal, as consolidated and issued to the Court. The issues are discussed under the identified headings in the consolidated reasons for refusal. City Plan v4 has come into effect since the original assessment, however this

does not substantively change assessment of the issues, insofar as they relate to the development application subject to the appeal.

Environmental values

One of the most significant concessions in the proposed minor change plans, following the without prejudice discussions, is the re-positioning of the main east-west ecological/fauna corridor more centrally within the site. The Appellant originally proposed the corridor to the north of the site adjacent to Bunker Road.

The proposed minor change plan now illustrates an 80m wide east-west corridor and re-locates the proposed park further to the southeast, at a point further away from the east-west and north south confluence of the corridors. The proposed area of park is now proposed in an area that was originally identified for future development.

To the west of the subject site the development footprint of stage 1 is similar to that originally proposed relative to the Little Erapah riparian corridor, however includes additional stormwater basins within this area. Furthermore, there are 3 additional lots and an area of road within the area previously identified as potential future development.

Figure 2 below illustrates an overlay of the changed development layout on that previously proposed as part of the original development application.

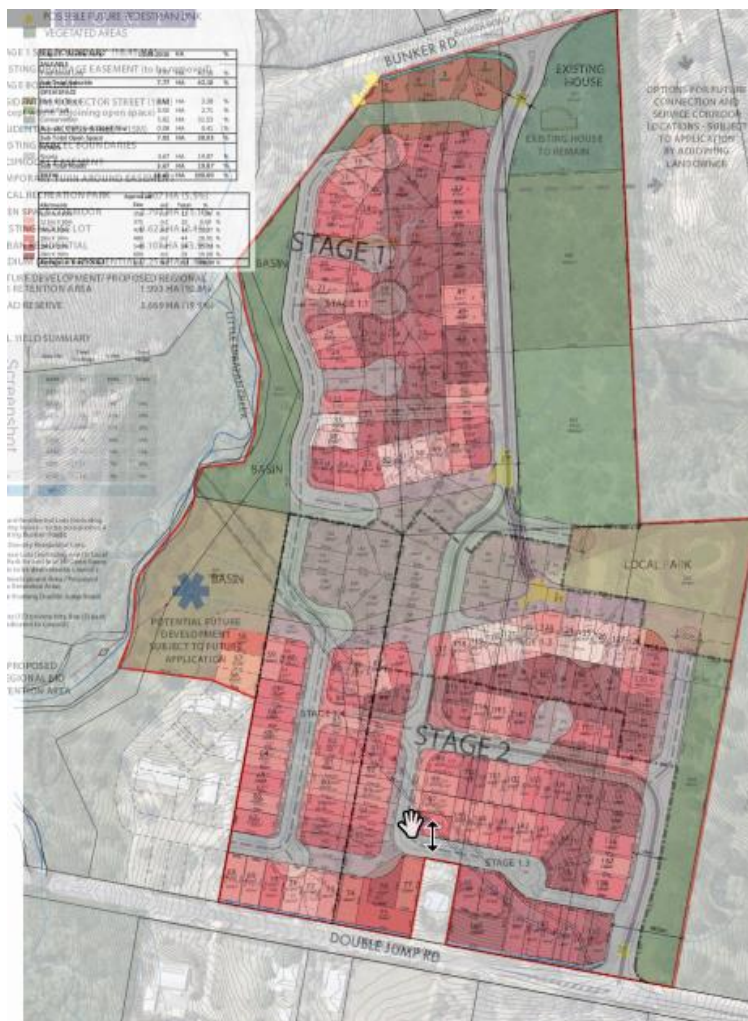


Figure 2 – Original and proposed minor change plan

In consideration for the original development application Council wished to retain this central corridor as there are existing non-juvenile koala habitat trees located within this area of the site. This outcome, whilst not achieving the 100m wide corridor identified within the environmental significance overlay, is considered to be a superior layout and environmental outcome that retains this vegetation. The proposed 80m wide corridor is considered sufficient to meet the performance outcome and be of sufficient width to maintain a viable wildlife or habitat linkages. The proposed change layout relative to the environmental significance overlay in City Plan is identified below in **Figure 3.**

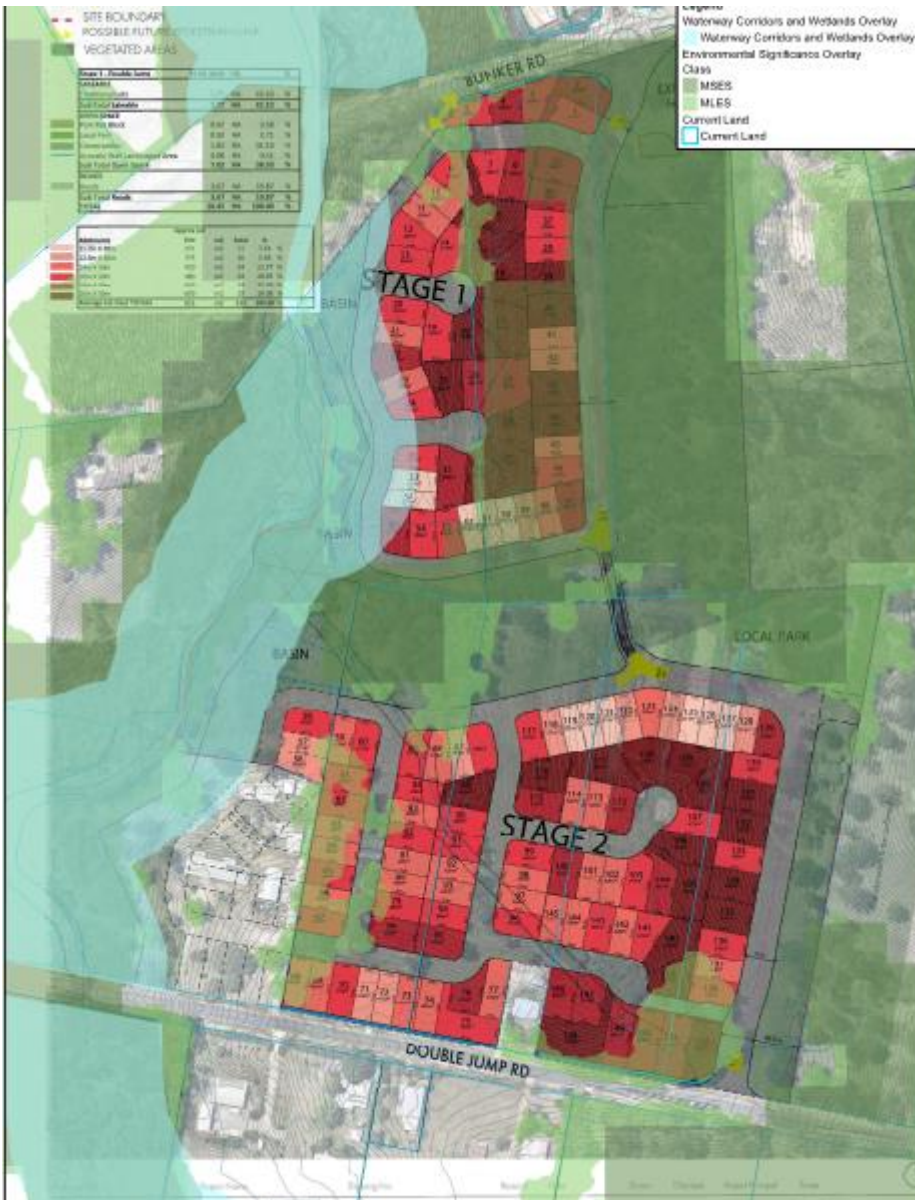


Figure 3 – Proposed change and environmental significance overlay City Plan

The relocation of the proposed neighbourhood park is to an area previously identified for future development. This ensures that the park area moves away from the confluence of the main east-west and north-south corridor on the site. Similarly, the park is located within an area currently occupied by a dam. In principle, this is a better outcome but subject to detailed consideration.

Figure 3 above also includes the buffer area to the riparian corridor as identified within the waterway corridors and wetlands overlay in City Plan. The blue shading is the extent of the 50m

buffer referred to in the acceptable outcome of the code and as illustrated part of the development in stage 1 is still proposed within the buffer area.

A further change introduced is the ‘at grade’ fauna friendly road crossing point through the east-west corridor. The crossing has been designed to slow vehicle speed through a combination of measures such as a change in surface material treatment, signage and edge treatment. A typical section from the proposed landscape plan is provided in **Figure 4**.

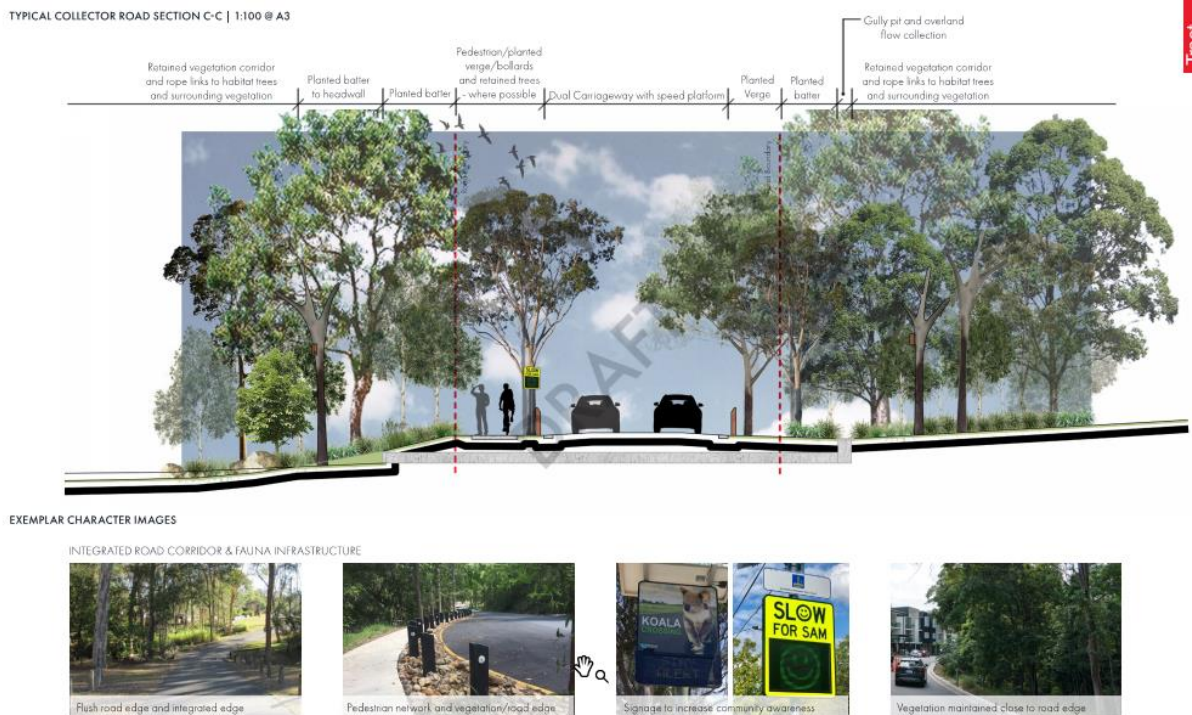


Figure 4 – Typical fauna crossing road section

The ecological expert acting on behalf of Council is generally supportive of the revised plan however still has some concern with regard to the level of detail proposed and potential impact upon the ecological values. Specifically, this relates to the potential impact of earthworks associated with the construction of roads and infrastructure on retained vegetation within the east-west corridor and the riparian corridor.

Whilst recognising that the changed plan is a significant improvement, it is recommended that Council ought to maintain its reasons for refusal as stated in **Attachment 3**.

As identified within the consolidated grounds of refusal, a concern of Council was the consistency of the environmental corridors from first principles and its consistency with the draft South West Victoria Point Local Plan. Whilst not yet adopted, the draft South West Victoria Point Local Plan is considered to be a relevant matter.

Medium density residential

The medium density lot originally proposed to Double Jump Road has been removed and replaced with residential lots. The proposed change is recommended to sufficiently address the stated reason for refusal and should no longer be contended on this ground.

Transport

The Appellant has indicated that an affidavit from their Traffic Engineer is to be submitted to support the minor change request. At the time of preparation of this report this affidavit has not been received. Similarly, no further information has been submitted demonstrating the impact of the proposed development upon the local road network. For this reason it is recommended that the identified reason for refusal should be sustained.

Wastewater

During without prejudice discussions the Appellant maintained its argument that a lift station was required to service the development and that proposed earth works required to accommodate Council's preferred gravity sewer system would be unsightly.

Council officers remain to be convinced and recommend that the stated reason for refusal should remain.

Furthermore, no further information has been submitted by the Appellant in respect of the upgrades to the sewerage treatment plant reason for refusal. This stated reason for refusal should also remain.

Other issues

Lot Design

Whilst not previously raised as a reason for refusal by Council, the proposed change plans introduce a number of lots under 400m². As identified in **Figure 1** and the plans in **Attachment 4**, 21 of the 152 lots (14%) are proposed under 400m².

As previously identified, the draft South West Victoria Point Local Plan is not yet adopted and therefore regard may only be given as a relevant matter. Officers are aware that Council resolved to submit a response to the State interest review of the draft Local Plan that sought to include reference to not more than 10% of a development site as lots less than 400m² as an acceptable outcome. Whilst this layout exceeds this percentage, those lots less than 400m² are located opposite proposed areas of open space and within easy walking distance to the neighbourhood park. Furthermore, there are not an excessive number of smaller lots in a row. In an emerging community such as this, the proposed location and number of smaller lots is considered acceptable and assists in providing housing choice.

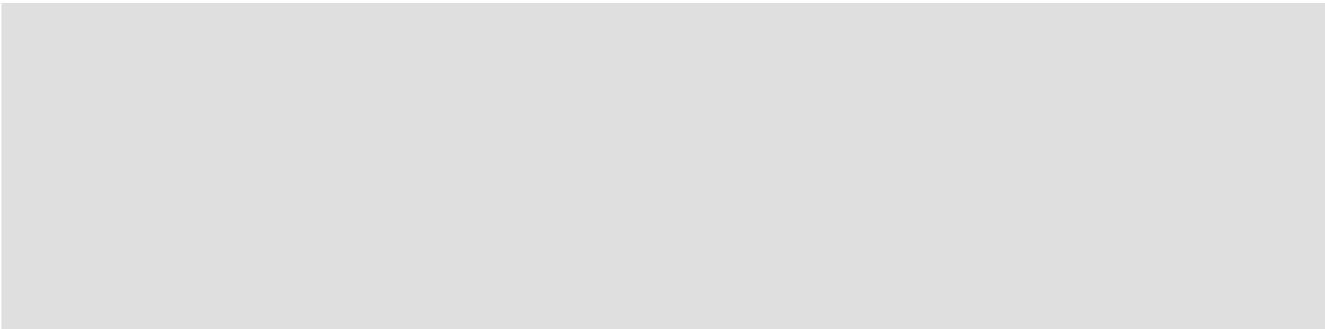
Structure Planning

As set out in the assessment of the proposed change plans, from first principle assessment there is greater consistency with the draft South West Victoria Point Local Plan. The draft Local Plan is considered to be a relevant matter in the assessment of the appeal. Notwithstanding and as identified, it remains that further information is required to ensure that any impacts are suitably addressed and therefore reference to the draft Local Plan should remain.

CONCLUSION

The proposed change plans are considered to represent a significant improvement on the plans previously considered and go some way in achieving the ecological and layout outcomes required. However, there remains some detail to work through to ensure that the detailed design will not significantly impact on matters of environmental significance. Further, the Appellant has not provided any further information in respect of infrastructure and impacts on the local road network and it is therefore recommended that refusal ought be maintained for the reasons identified in **Attachment 3**.

STRATEGIC IMPLICATIONS



Legislative Requirements

The Development Application has been assessed 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 in the range [redacted] exclusive of any adverse costs orders in the event the Council is unsuccessful.

People

There are no implications for staff associated with this report.

Environmental

Environmental impacts are discussed in the ‘Issues’ section of this report where relevant.

Social

Social impacts are discussed in the ‘Issues’ section of this report where relevant.

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. There are no known human rights implications associated with 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	July 2020	Preliminary advice has been incorporated into the report.

Consulted	Consultation Date	Comments/Actions
Managing Principal – Terrestria Ecological Management	July 2020	Preliminary advice has been incorporated into the report.

OPTIONS

Option One

That Council resolves as follows:

1. To continue to oppose the development application, for the reasons generally in accordance with those identified in **Attachment 3**.
2. To instruct its solicitors to notify the parties that it opposes the development application, for the reason generally in accordance with those identified in **Attachment 3**.
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 Two

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 its 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 continue to oppose the development application, for the reasons generally in accordance with those identified in Attachment 3.**
2. **To instruct its solicitors to notify the parties that it opposes the development application, for the reason generally in accordance with those identified in Attachment 3.**
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.**

19.4 SUTGOLD V REDLAND CITY COUNCIL (PLANNING AND ENVIRONMENT COURT APPEAL 3829/2019)

Objective Reference:

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

Responsible Officer: Stephen Hill, Acting Group Manager City Planning & Assessment

Report Author: Michael Anderson, Senior Appeals Planner

Attachments:

1. Location Plan
2. Applicant's structure plan
3. Proposed reconfiguration of a lot layout
4. Referral agency response
5. Advice agency response
6. Summary of submissions
7. Reasons for refusal
8. Notice of appeal

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 Sutgold Pty Ltd (Sutgold) v Redland City Council (Council) (Planning & Environment Court Appeal 3829/2019) which is a deemed refusal appeal. Council (the respondent) is required to confirm its position on the development application in the Planning & Environment Court appeal by 31 January 2020. It is referred to Council for determination.

BACKGROUND

The Development Application

Council received an application from Sutgold seeking a development permit for reconfiguring a Lot (RAL) (8 Lots into 176 Lots), park and road – including balance lots for future residential and commercial development on land at 72 – 74 and 78 – 82 Double Jump Road and 158-178 Bunker Road, Victoria Point, and more properly described as Lots 20 and 21 on RP86773, Lots 12 and 13 on RP86773, Lot 12 on RP898198, Lot 22 on RP 86773, Lot 15 on RP86773 and Lot 16 on RP 86773 (Council Reference: ROL006166). The location of the site is shown in **Attachment 1**. The site is owned by:

- [REDACTED] lots 20 and 21 on RP86773, lots 12 and 13 on RP86773 and Lot 12 on RP89198) – 168-172 & 174-178 Bunker Road, 72-74 Bunker Road and 78-82 Bunker Road
- [REDACTED] Lot 22 on RP86773) – 158-166 Bunker Road
- [REDACTED] Lot 15 on RP86773) – 80 Double Jump Road
- [REDACTED] Just (Lot 16 on RP86773) – 82 Double Jump Road.

The application was subject to impact assessment.

Sutgold lodged the development application on 24 March 2017. The development application was properly made on 28 March 2017 and the acknowledgement notice was issued on 12 May 2017.

An information request (IR) was issued on 26 May 2017. The IR identified the proposed residential subdivision was in conflict with the Redlands Planning Scheme (RPS) including the outcomes sought for the rural non-urban, conservation and environmental protection zones. In the IR it was acknowledged that the subject site and surrounds were identified in the *South East Queensland Regional Plan 2009-2031* (SEQRP 2009) as a local development area for residential growth, however the proposal was not considered to comply with the sub-regional narrative for Redland, outlined in Part C of SEQRP 2009 and therefore also conflicts with the SEQRP. The sub-regional narratives in Part C stated that the Victoria Point Local Development Area (VPLDA) *'requires further investigation and planning scheme amendments before any development can proceed'*.

Further, it was identified that given the conflict with the RPS and given the SEQRP 2009 State Planning Regulatory Provisions are triggered, which requires that development *'...must be consistent with the future planning intent for the area'*, a structure plan for the whole local development area underpinned by robust evidence prepared by suitably qualified experts was required. A list of key issues raised by the IR included:

- Structure plan;
- Detailed ecological report;
- Demonstration of compliance with South East Queensland Koala Conservation State Planning Regulatory Provisions;
- Landscape master plan;
- Assessment to demonstrate compliance with the protection of the poultry industry overlay code; and
- Concept designs for the roundabout at intersection with Bunker Road and the T intersection with Double Jump Road.

A response to the IR was made on behalf of the applicant on 22 June 2018. Included within the information request response was a request for the re-classification of koala habitat, pursuant to Division 9 of the SEQ Koala State Planning Regulatory Provisions.

Following public notification of the development application the decision stage started on the 5 August 2018 and the decision period was extended by agreement with Council to 26 July 2019.

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. As identified above the decision making period was extended by agreement with the applicant until 26 July 2019. 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 23 October 2019.

The NoA seeks the following orders:

- That the appeal be allowed;
- That the development application be approved; and
- The Respondent pay the Appellant's costs of the appeal.

Some of the identified grounds of appeal in the NoA are as follows:

- The subject land has a total site area of 205,937m²;
- Is within the Urban Footprint and a Local Development Area for residential growth in the SEQ Regional Plan 2009;
- Is within the Urban Footprint for *Shaping SEQ South East Queensland Regional Plan 2017* (SEQ Regional Plan 2017);
- Was partly in the rural non-urban zone, the environmental protection zone and conservation zone within the Respondent's Planning Scheme 2006 (version 7.1, 2016); and
- Is currently zoned in City Plan 2018 (version 3) as emerging community.

Full grounds outlined in the NOA are included at **Attachment 8**.

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 [REDACTED]
- **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 [REDACTED] 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.

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)

Development Proposal & Site Description

Proposal

As originally submitted the development application proposed 166 low density residential lots including one (1) existing house to be occupied on a new lot to Bunker road, three (3) medium density residential lots, one (1) local centre, four (4) open space lots (including one (1) local recreation park and three (3) open space corridor lots to be dedicated to Council, one (1) potential future development area/proposed regional bio retention area and new road (refer to **Figure 3**).

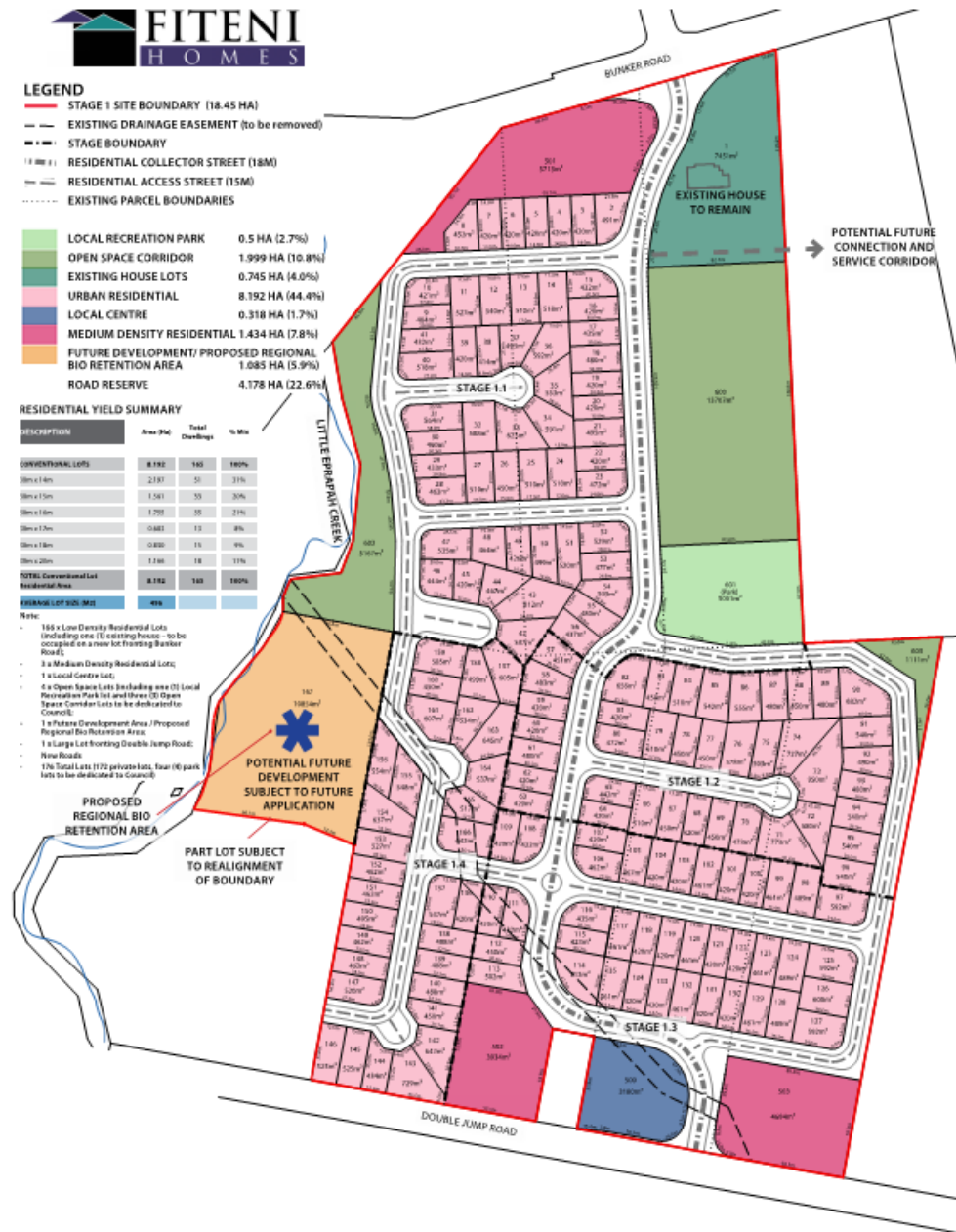


Figure 3 – Extract of reconfiguration plan as submitted

In responding to the IR a number of changes were made to the proposed development including:

- Removal of the proposed local convenience centre and some medium density residential areas fronting Double Jump Road and Bunker Road;
- Inclusion of secondary ecological corridor linages along the eastern and northern boundaries of the sites (and associated removal of medium density residential fronting Bunker Road);
- Moving of the Double Jump Road access location slightly further east;
- Removal of lots within the area now identified as proposed lot 203, pending resolution of structural and vegetation matters in this area;
- Minor adjustments to the internal road and lot layout to accommodate the above; and
- A structure plan was submitted as part of the response (Refer to **Figures 4 and 5**).

The resultant design delivers 169 standard residential lots, including one (1) existing house to be contained on a new lot fronting Bunker Road; one (1) medium density residential lot; five (5) open space lots, including one (1) local recreation park and four (4) ecological corridor lots, all to be dedicated to Council; two (2) future development lots; one (1) large lot fronting Double Jump Road and new roads (refer to **Figure 6**).



Figure 4 – Extract from Proposed Applicant’s Structure Plan



Table 1 The total area dedicated for ecological function is 40 ha (23.5% of total VPSP area) and includes approximately 2.5km of newly vegetated links (habitat) totalling 13.5ha – it is estimated that approximately 125,000-135,000 trees will be planted.

LEGEND

KEY FEATURES

- VPSP Boundary
- Core Ecological Values(State Mapping)
- Primary Ecological Corridor (Creek Corridors)
- Secondary Linkage Corridor
- Aesthetic/Multi-Function Spine (Pedestrian/ Cycle & Stormwater Function)
- Watercourse
- Regional Stormwater Device

FAUNA CROSSING DESIGN ELEMENTS

- ✳ Fauna crossing to new roads
- ✳ Fauna crossing to existing roads

Fauna crossing design elements at low points on new roads:

- Priority is to be given to grade-separated fauna movement opportunities
- Under-road space provided and dedicated as a fauna underpass
- Fauna underpasses should provide
 - I. a dry land passage portal of a minimum size of 2.4m high by 3m wide;
 - II. unobstructed view through to the far side of the underpass;
 - IV. habitat rehabilitation to provide protective cover to underpass

Fauna crossing design elements existing roads or non-low points:

- traffic calming devices; signage; and fauna exclusion fencing to choreograph movement to coincide with the safest location and where suitable access to retained vegetation is provided

Figure 5 – Extract from Proposed Applicant’s Structure Plan – Ecology & Conservation

Site & locality

The subject site is situated in Victoria Point. The site is bound by Bunker Road, vegetation and residential properties to the north. Vegetation and rural land uses exist to the east, south and west. The site has frontage to Double Jump Road to the south.

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:	RPS (Version 7.1) <ul style="list-style-type: none"> • Desired environmental outcomes • Rural non-urban zone code • Conservation zone code • Environmental protection zone • 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 • Road and rail noise impact overlay code • Landslide hazard 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
	City Plan (V3) <ul style="list-style-type: none"> • Strategic framework • Emerging community zone code • Bushfire hazard overlay code • Environmental significance overlay code • Flood and storm tide hazard overlay code • Landslide hazard overlay code • Healthy waters code • Infrastructure works code • Landscape code • Reconfiguring a lot code • Transport, servicing, access and parking code
Matters prescribed by Regulation	<ul style="list-style-type: none"> • <i>State Planning Policy 2017</i> • SEQ Regional Plan 2009 (relevant at time of lodgement) • <i>SEQ Regional Plan 2017</i> • Planning Regulation, Schedule 11, Part 6
Other relevant matters	<ul style="list-style-type: none"> • Draft Major Amendment Package (05/19): South West Victoria Point Local Plan

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 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. S31 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.

As identified above, at the time this development application was properly made (28 March 2017), the SEQ Regional Plan 2009 (SEQRP) and RPS (version 7.1) were in effect. The SEQRP 2017 took effect in August 2017 and Redland City Plan 2018 (version 3) (City Plan) commenced on 17 July 2019. 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.

The key issues identified in the assessment are:

- Consistency with planning framework
- Environmental values
 - Habitat protection and environmental significance overlay
 - Koala habitat mapping amendment request
 - Assessment against assessment benchmarks for development in the priority koala assessable development area in the *Planning Regulation 2017*
 - Corridor width and location
- Site layout/design
- Infrastructure delivery

- sewer
- water
- stormwater
- Traffic/road network
- Local park provision and location
- Prematurity of development.

Consistency with Planning Framework

SEQ Regional Plan

At the time the development application was properly made the SEQRP 2009 identified the site within the 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.

It is acknowledged that the *SEQRP 2017* does not include the same requirements under SEQRP 2009 in respect of the emphasis placed on the preparation and gazettal of structure plans for inclusion in the planning scheme, following a formal planning scheme amendment process.

However, 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 to 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 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 sections 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 PReg.

State Policy/Regulation	Applicability to Application
<p><i>State Planning Policy</i> (commenced on 29 April 2016) – at lodgement</p>	<p>The RPS does not integrate the SPP and therefore an assessment against the Interim development assessment requirements (Part E) is required. The following SPP mapping triggers have been identified:</p> <ul style="list-style-type: none"> • Biodiversity <ul style="list-style-type: none"> ○ Matters of State Environmental Significance (MSES) – Wildlife habitat • Coastal environment <ul style="list-style-type: none"> ○ Coastal zone • Water quality <ul style="list-style-type: none"> ○ Climatic regions – stormwater management Design objectives • Natural hazards and risk and resilience <ul style="list-style-type: none"> ○ Bushfire hazard area (Bushfire prone area).

The assessment provisions relevant to the identified state interest are set out under the corresponding heading below.

Biodiversity

The subject site is mapped as containing MSEs:



The development application is to be assessed against the following requirements:

- Enhances matters of state environmental significance where possible; and
- Identifies any potential significant adverse environmental impacts on matters of State environmental significance, and
- Manages the significant adverse environmental impacts on matters of state environmental significance by protecting the matters of state environmental significance from, or otherwise mitigating, those impacts.

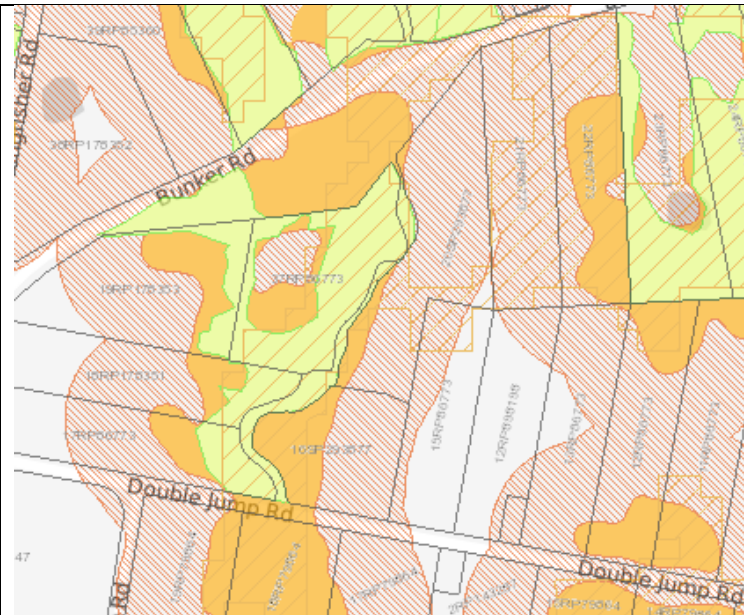
An assessment is included within the environmental values section of this report.

Water Quality

A stormwater management plan and solution has been prepared in support of the reconfiguration (the detailed design subject to a future development application). It is considered that the impacts on

	<p>environmental values of receiving waters arising from altered stormwater flows will be minimised.</p> <p><u>Natural hazards, risk and resilience</u></p> <p>A bushfire management plan has been prepared in support of the development application and further discussion and assessment is provided below.</p>
<p>State Planning Regulatory Provisions – at lodgement</p>	<p><u>South East Queensland Regional Plan 2009-2031 State Planning Regulatory Provisions</u></p> <p>Under Division 3, Section 3.2 of the SPRP, the development triggers impact assessment and requires the referral of the development application to the State Assessment and Referral Agency (SARA). The provisions state that the development must be consistent with the future planning intent for the area. As the subdivision is intended to form part of the VPLDA it is considered consistent with the future planning intent for the area.</p> <p>The concurrence agency response in respect of this referral trigger is summarised below in the State referrals section of this report. The SPRP has been repealed and there is no equivalent assessment provisions contained with the PReg.</p> <p><u>South East Queensland Koala Conservation State Planning Regulatory Provisions (as made November 2015)</u></p> <p>The subject site is mapped as within the Priority Koala Assessable Development Area (PKADA). Division 6 – Development in priority Koala Assessable Development Area of South East Queensland Koala Conservation State Planning Regulatory Provision applies to the reconfiguration development application.</p> <p>Assessment is required against the assessment criteria outlined in Table 6, column 2 of the SPRP:</p> <ul style="list-style-type: none"> • <i>Site design does not result in the clearing of non-juvenile koala habitat trees in areas of bushland habitat.</i> • <i>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.</i> • <i>Site design provides safe koala movement opportunities as appropriate to the development type and habitat connectivity values of the site determined through Schedule 2.</i> • <i>During construction phases:</i> <ul style="list-style-type: none"> ○ <i>measures are taken in construction practices to not increase the risk of death or injury to koalas; and</i>

	<ul style="list-style-type: none"> ○ <i>native vegetation that is cleared and in an area intended to be retained for safe koala movement opportunities is progressively restored and rehabilitated.</i> ● <i>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.</i> ● <i>Landscaping activities provide food, shelter and movement opportunities for koalas consistent with the site design.</i> <p>Division 9 of the Koala SPRP allows an applicant to request the assessment manager makes a determination that the land, part of the development application, is of a different koala habitat type shown for the land on the map of koala assessable development koala habitat values. As part of the information request response the application has made such a request.</p> <p>The koala SPRP has been repealed and replaced by the assessment benchmarks relevant to development in koala habitat areas in the PReg. An assessment is included within the environmental values section of this report.</p>
<p><i>State Planning Policy 2017 (SPP) – currently in effect</i></p>	<p>The Planning Minister has identified that State Planning Policy (SPP) April 2016 is reflected in the planning scheme (City Plan Version 3) in the following ways – all State interests in state planning policy.</p> <p><u>Bushfire hazard area</u></p> <p>The entire site is subject to the bushfire prone area mapping of the SPP. Across the site the mapping is separated into two (2) categories as follows:</p> <ul style="list-style-type: none"> ● Medium potential bushfire intensity; and ● Potential impact buffer <p>Existing areas of vegetation along Little Eprapah Creek and the central area to the north of the site are contained within the medium potential bushfire intensity mapped area with surrounding areas within the potential impact buffer. An extract of the relevant SPP mapping is provided below:</p>



A Bushfire Management Plan (BMP) was submitted with the original application. At the time the report was prepared, in accordance with SPP 1/03: Mitigating the Adverse Impacts of Flood, Bushfire and Landslide, the majority of the site, the site was identified as being a low bushfire hazard area. The report states that bushfire is a consideration in minor sections of the development but is easily satisfied by a perimeter road between areas of hazardous vegetation and the proposed residential lots. It is confirmed that the bushfire attack level (BAL) in all areas of the development would be 12.5.

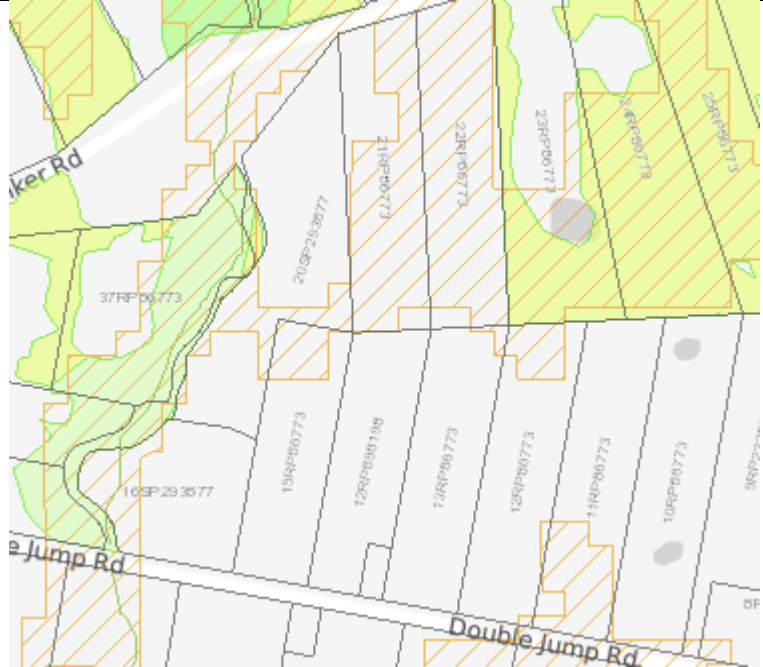
It is noted however that the BMP was drafted in March 2017 and refers to the superseded SPP 1/03. It is therefore considered that a revised BMP would be required to be prepared in accordance with the updated SPP guidance material on Bushfire risk and which takes into account changes that have been made to the layout since the development application was lodged.

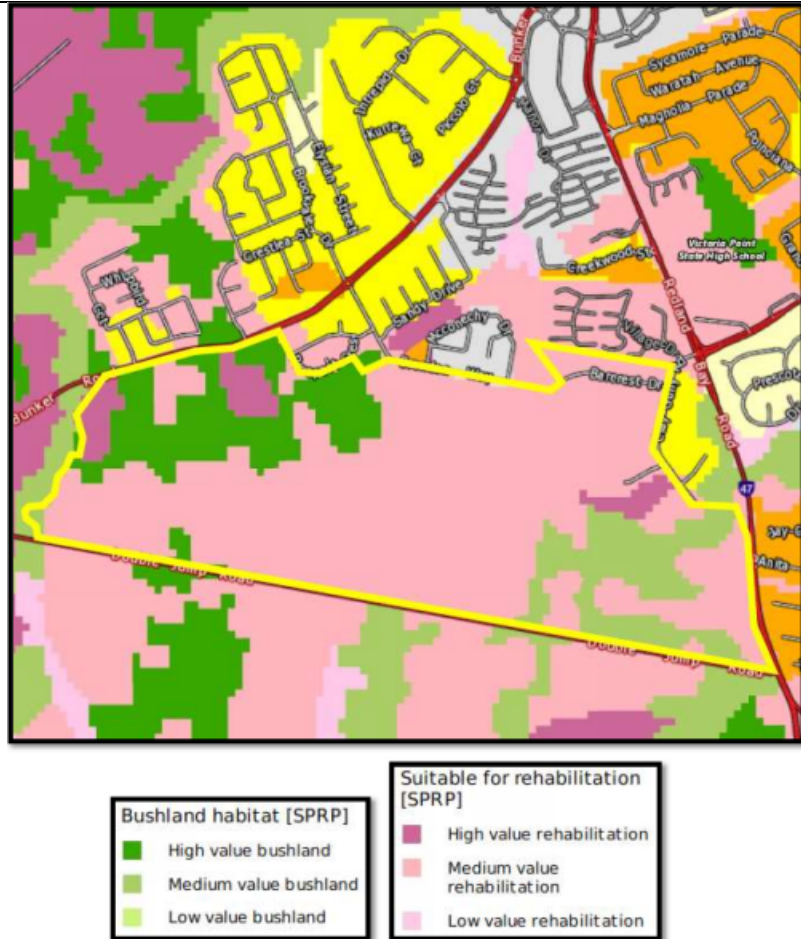
Biodiversity

The site is subject to several categories of biodiversity mapping under the SPP. The mapped categories are as follows:

- Wildlife habitat – cross hatch
- Regulated vegetation (essential habitat) – yellow

An extract from the SPP mapping is provided below:

	 <p>The ecological assessment report by BAAM Ecological Consultants, dated 17 April 2018, states that the majority of the site is mapped as Category X (non-remnant/non-re-growth) and that any clearing would be classified as exempt clearing works under Schedule 21 of the <i>Planning Regulation 2017</i>, as the application applies to lots less than 5 ha.</p>
<p><i>Planning Regulation 2017</i> (1 January 2020)</p>	<p><u>Koala Habitat Area</u></p> <p>The Development Area is located with a Priority Koala Assessable Development Area (PKADA) as defined under the <i>Planning Regulation 2017</i>. Current koala habitat mapping describes the following across the Development Area:</p> <ul style="list-style-type: none"> • High Value Bushland – a large area mapped across the north-west part of the Development Area to Bunker Road



Schedule 11 identifies that development on premises within a koala habitat area is to be assessed against the assessment benchmarks stated for development in Schedule 11, Part 2.

Schedule 11, Part 2, Section 6 outlines the assessment benchmarks for development in priority koala assessable development areas. The following matters are assessment benchmarks for development:

- *The development does not involve clearing non-juvenile koala habitat trees in bushland areas;*
- *The development avoids clearing non-juvenile koala habitat trees in an area that is-*
 - *A high value rehabilitation area; or*
 - *A medium value rehabilitation area*
- *If the clearing of non-juvenile koala habitat trees cannot be avoided in an area (stated above) –*
 - *The amount of clearing is minimised; and*
 - *Any significant residual impact of the clearing is offset*
- *The matters stated in section 2(2) (a) – (e).*

	<p>Part 4 of Schedule 11 of the Planning Regulation relates to requests being to the assessment manager for the re-classification of koala habitat. This section includes criteria for assessing the request.</p> <p>An assessment is included within the environmental values section of this report.</p>
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Redland Planning Scheme

In the RPS the subject site is included within the rural non-urban, environmental protection and conservation zone code. Whilst part of 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 partly 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 of the PAct, the Court will need to determine the weight 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. Given the change in intent for the area, from rural non-urban to urban, identified in relevant statutory instruments (City Plan and SEQRP 2017) an assessment against the rural non-urban zone and DEOs of the RPS has not been undertaken. As an impact assessable development application the relevant assessment benchmark is identified as the entire planning scheme.

Assessment against the relevant environmental protection and conservation zone codes of the RPS and City Plan are undertaken under the environmental values sub-heading of this report.

Land use intent

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;'*

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 which is currently progressing through first State interest review. 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 *Sustainable Planning Act* (SPA), assessment under the PAct 2016 allows regard to be given to any 'other relevant matter'. In the opinion of the Council town planning expert retained for the appeal, the draft South West Victoria Point Local 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 1**) identifies land on the subject site within the environmental management, conservation, and recreation and open space and low density residential zone. An extract of the draft structure plan and the proponent's structure plan are shown below in **Figures 7** and **8** below:



Figure 7 – Draft South West Victoria Point Structure Plan



Figure 8 – 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 environmental management corridor and location of recreation and open space. In the proponent led structure plan, rather than providing the east-west link, a secondary linkage corridor is located to the north adjacent to Bunker Road. The local park is located within the habitat areas (state mapping) whereas within the draft structure plan a recreation area is located immediately to the south. Detention areas are also located within mapped conservation areas. Further, the revised plan proposed as part of the development application retains a medium density residential area to the south, adjacent to Double Jump Road. Refer to **Figure 6** above. There are also identified differences in the coordination and provision of infrastructure, including sewerage and traffic and road networks.

Residential lots and an area proposed for the future regional bio-retention basin (subject to a future development application) are proposed within the environmental management and recreation and open space zone in the draft South West Victoria Point Local Plan. Similarly the proposed local park is located within the environmental management zone.

Summary

Whilst 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 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 structure 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. In doing so considering whether approval of the development application would prejudice the ultimate form of the draft South West Victoria Point Local Plan.

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

ENVIRONMENTAL VALUES

Ecological reports supporting the development application present an ecological assessment of the extent of values in the application area and justify any non-compliance of the reconfiguration plan with the relevant planning instruments. A summary of the justification is as follows:

- relies on State and Federally threatened species to define corridor requirements;
- identifies the riparian area of Little Erapah creek as a primary corridor;
- presents arguments that mobile species such as the red-necked wallaby and northern brown bandicoot are present, then explains that movement is restricted across Double Jump and Bunker Roads. It is suggested that these species, along with the Koala, are unlikely to be present within the area as the two roads currently represent a functional obstruction to fauna movement;
- replaces the central east-west corridor with a proposed east-west corridor bordering Bunker Road (to the north of the development application) and offers management strategies to increase functional connectivity;
- proposal of an integrated park and fauna corridor movement network; and
- provides other design constraints as reason for removal of ecological corridors as a compromise between competing interests in the development.

Figure 9 below is an extract from the Landscape Master Plan (from the BAAM Report) which identifies the alternative connected corridors proposed as part of the development:

- Re-instatement of vegetation for a width of between 30-60m along the western boundary to supplement existing vegetation associated with Little Erapah Creek, partly included within the land zoned for conservation in RPS. The southern part of this area includes a lot for the proposed regional bio-retention basin;
- An east-west corridor on the north boundary, adjacent to Boundary Road which connects Little Erapah Creek with the bushland habitat included within the core habitat area; and
- The north-south core habitat area which includes the proposed park area.



Figure 9 – Extract of Landscape Master Plan (BAAM Report)

Habitat Protection and Environmental Significance Overlay

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 10** below provides an extract of the habitat protection overlay in the RPS and environmental significance overlay in City

Plan. 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).

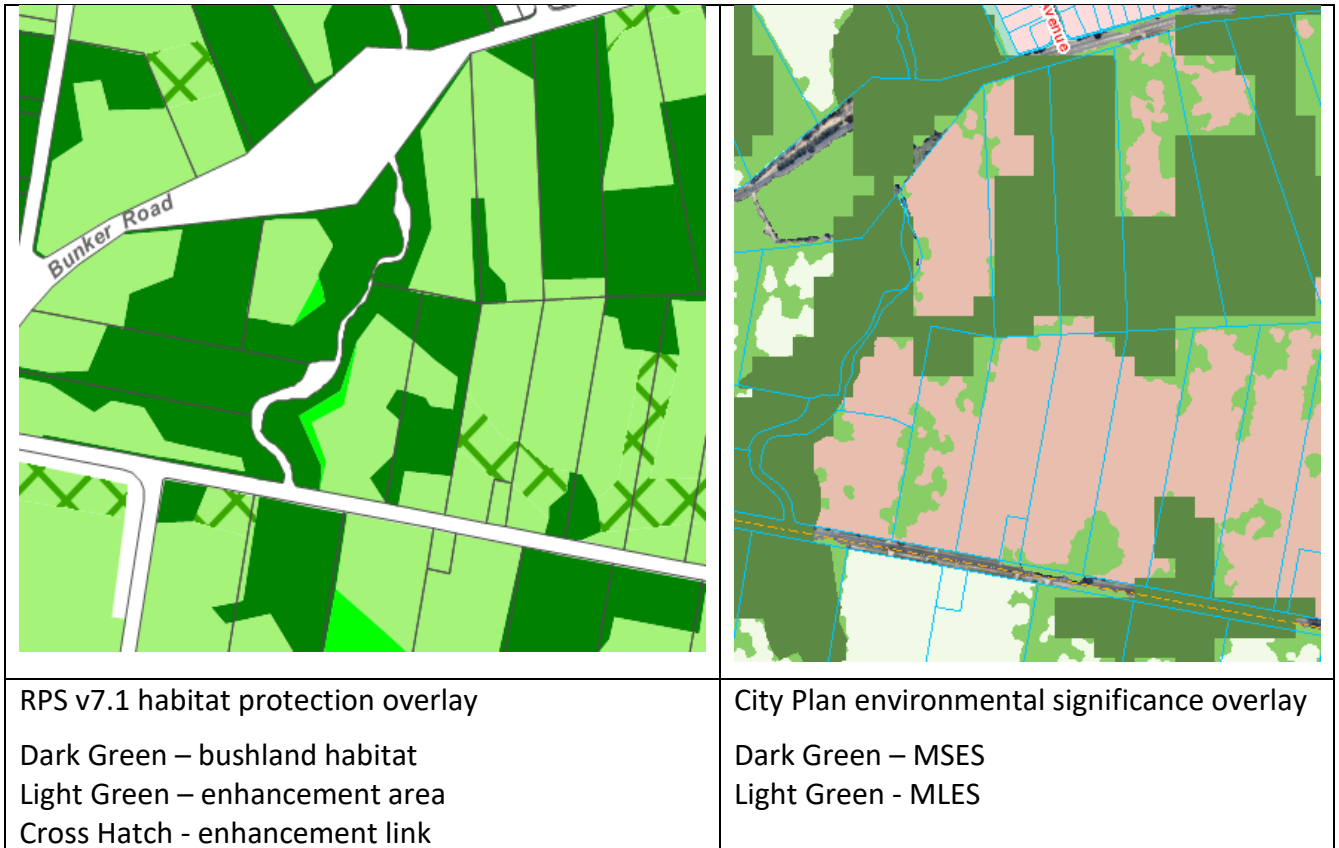


Figure 10 – Overlay maps

The current SPP mapping is identified in **Figure 11** below and identifies wildlife habit relevant to the site.

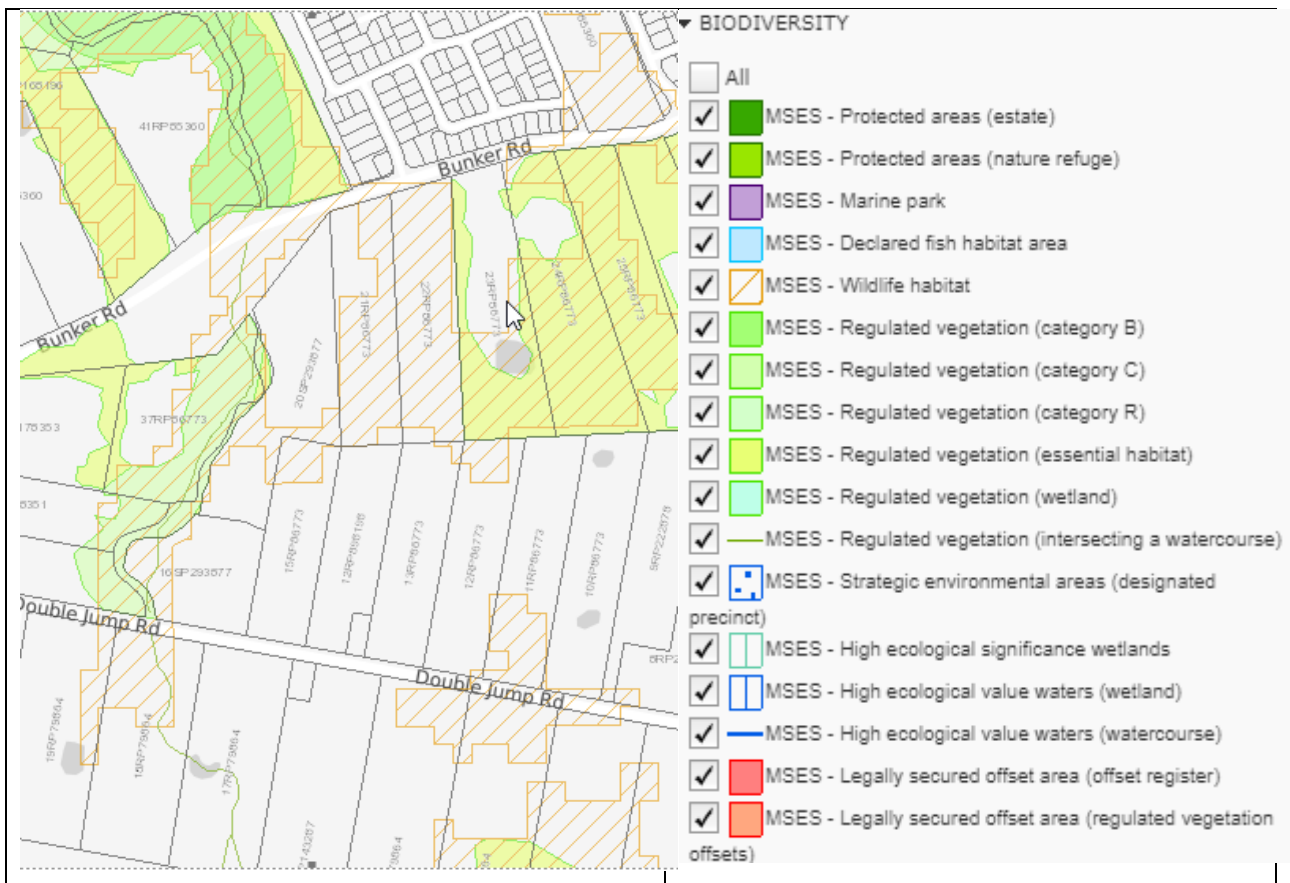


Figure 11 – Current SPP Mapping

While there is a property map of assessable vegetation (PMAV) which identifies the vegetation as category X for the purposes of the *Vegetation Management Act 1999*, the east-west connection is mapped for its wildlife habitat value rather than a regulated vegetation category.

The latest SPP mapping included with the City Plan (based on SPP Mapping at the time) and current SPP mapping show the same extent of MSES where the east-west connection is proposed. As the extent of mapping in City Plan and the environmental significance overlay is consistent with the new SPP mapping, the SPP is considered to be appropriately reflected in City Plan.

In City Plan, the purpose of the environmental significance code is achieved through the following overall outcomes:

- Areas of high biodiversity or ecological significance are retained and protected;
- Development maximises the retention of native vegetation and significant habitat features;
- Development minimises the loss of koala habitat trees;
- Impacts on matters of state or local ecological significance are minimised and mitigated;
- Development does not cause substantial fragmentation of habitat areas;
- Opportunities for safe and viable wildlife movement within and between habitat areas are facilitated;
- Landscaping and planting is undertaken in a manner that contributes to the ecological values of the site; and

- Where they occur significant residual impacts on matters of local environmental significance or another prescribed environmental matter in accordance with section 15(4) of the *Environmental Offsets Act 2014*, may need to be offset.

Koala Habitat Mapping Amendment Request

In responding to the IR the applicants ecological consultants BAAM included a request to amend the *South East Queensland Koala Conservation Planning Regulations (KSPRP)* koala habitat mapping as part of the development application. The KSPRP was in effect at the time the development application was made, however has been repealed and replaced by the *Planning Regulation 2017*. Of relevance to the assessment of this development application, it is requested that those portions mapped as high value bushland habitat on Lots 15, 20 and 21 RP86773 should be re-classified as holding koala rehabilitation habitat values. It is recommended by the applicant that the entire areas of these lots should be more accurately mapped as high or medium value rehabilitation to reflect the existing habit conditions and lack of ascribed bushland habitat values within the KSPRP bushland definition. The applicant in undertaking their assessment included an assessment of the location of koala trees. An extract of this plan is provided in **Figure 12** below:

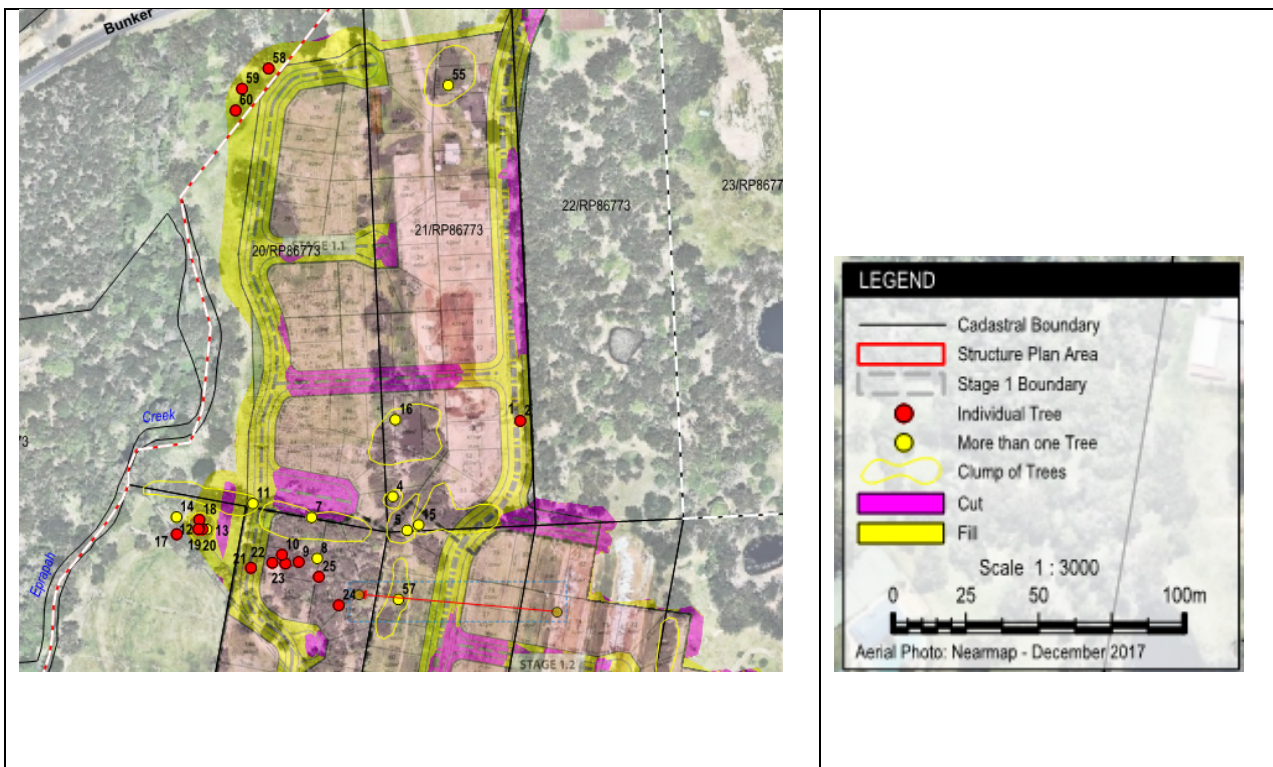


Figure 12 – Extract from BAAM Report – Locations of Koala Trees

This area generally relates to area 1.2 (purple) and the east-west corridor as shown in **Figure 13** below:



Figure 13 – Extract from BAAM Information Request Response

As set out above, the KSPRP has been repealed and replaced by the PReg. Schedule 11, Part 4, section 10 of the PReg includes the assessment criteria for deciding such requests. It is noted there are some differences between the criteria contained within Division 9 of the KSPRP (bushland habitat a defined term in the dictionary), now repealed and the PReg.

Considering the assessment criteria for deciding such requests, in both the KSPRP and PReg, the east-west connection area in question is considered to meet with the assessment criteria for a bushland habitat area. Accordingly, it is recommended that the request to change the classification of high value bushland is not supported.

The request to amend the koala habitat mapping and high value bushland located in the east-west corridor area (on Lots 15, 20 and 21 RP86773) is not supported as the bushland meets with the assessment criteria for bushland habitat areas in the Schedule 11, Part 4, Section 10 of the *Planning Regulation 2017*.

Assessment against Assessment Benchmarks for Development in the Priority Koala Assessable Development Area in the *Planning Regulation 2017*

An assessment against the relevant assessment benchmarks for development within koala habitat areas and specifically assessment benchmarks for development in PKADA in the PReg is required. In this regard it is considered that:

- The development will involve the clearing of non-juvenile koala habitat trees in a bushland habitat area;
- Whilst it is proposed to offset cleared vegetation on site it has not been sufficiently demonstrated that the amount of clearing can be avoided or minimised; and
- It has not been demonstrated that the development provides, to the greatest extent practicable, safe koala movement measures that are appropriate for the development and habitat connectivity value of the premises. It is not considered that the alternative safe koala

measures and proposed corridors are the appropriate outcome for the development and habitat connectivity value of the premises. This is discussed in further detail below.

For the above reasons the proposed development does not comply with the assessment benchmarks identified in Schedule 11, Part 2, Section 2 and 6 of the *Planning Regulation 2017*.

Corridor Location

The development application does not propose to retain the east-west linkage identified within the draft South West Victoria Point Local Plan. This area is also mapped as high value bushland in the SPRP and wildlife habitat in the SPP mapping. As set out above a request for re-classification has been made and the justification contained within Appendix 8 of the BAAM report in response to the IR states (underlining has been inserted by Officers for emphasis):

'Identifies a potential east west linkage point centrally located in the western portion of the VPSP area. Although there is existing vegetation and this linkage would result in a central connection to Little Eprapah Creek; due to the level of civil works required to provide sewage, stormwater treatments, flood immunity and other associated earth works to achieve appropriate urban design outcomes, there is only a low likelihood of some selected vegetation being retained within the extreme western portion of the VPSP area. There is a vegetated linkage provided to the north of this location within the VPSP and connections external to the VPSP area. This linkage was not specifically identified by the RCC Wildlife Corridor plan.'

It is noted that the reason behind not respecting the mapped corridor stated above is not an ecological argument.

The assessment also includes an assessment of the alternative Bunker Road link to Little Eprapah Creek (corridor location 1.1 on the plan in the BAAM report) and states (underlining has been inserted by Officers for emphasis):

'This is the location identified as the most practical and achievable means to link the core retained habitats to the Little Eprapah Creek Corridor. There is existing vegetation which will be subjected to weed removal and habitat enhancement to reinstate native vegetation, particularly Koala habitat trees. The proposed layout includes a roadway in this location and whilst this presents limitations to the functions of the corridor there is no suitable alternative location. This roadway terminates at a roundabout and is envisaged to be a low speed environment. There will be detailed management responses in this area to facilitate safe fauna movement particularly the deployment of Fauna exclusion fencing to choreograph fauna within the corridor to Little Eprapah Creek and prevent access to Bunker Road wherever practical.'

In general, arguments for the alteration of corridor locations is based on a compromise with other conflicting design requirements and offers management techniques to resolve any impacts to habitats and corridors. The alternative corridor locations are not considered acceptable for the following reasons:

- The development does not provide adequately for safe Koala movement through or within the site;
- Places development within mapped bushland habitat, severs mapped enhancement links and does not provide suitable alternative or compensatory habitat areas;
- The reconfiguration has not been designed to protect environmental and habitat values;

- The development does not protect, maintain and improve the existing extent of remnant and non-remnant vegetation by preventing clearing or fragmentation of viable habitat areas;
- Removal of corridor opportunities through location of future development and regional bio-retention basin placed within the waterway buffer and along Little Eprapah Creek;
- The development of the site relies on vegetation on the west of Little Eprapah Creek to provide for fauna movement. The location of a bio-retention basin within the mapped waterway buffer, is not considered to protect, enhance, manage and minimise impacts on the environmental values of waterways, wetlands, coastal drainage areas, and their associated ecological values by retaining habit links and retaining biodiversity;
- The proposed east-west fauna movement corridor in the north of application area (adjacent to Bunker Road and severed by the proposed new access road) is limited in width and is not supported as an appropriate fauna movement corridor. The corridor is bound by the proposed residential development and bunker Road to the north and is severed by the proposed main north-south access road to the development;
- Alternative options for safe fauna movement have not been appropriately considered;
- Severing of east-west connectivity through removal of the central corridor, mapped as high value bushland in the SPRP and as wildlife habitat in the SPP mapping is not supported as it severs linkage between the extant vegetation on little Eprapah and Moogurrapum Creeks (these are the two major north-south corridors) and forces wildlife to cross the entrance to the reconfiguration in the vicinity of Bunker Road which is considered an inferior fauna movement corridor and ecological outcome;
- Encroachment of the proposed development and proposed access road into the north-south corridor will result in the removal of koala habitat trees along the eastern boundary of the development (Lots 12 RP86773) and is not supported (contrary to habitat protection overlay and enhancement link in RPS and conservation zone in the draft South West Victoria Point Local plan; and
- The location of the local park within the environmental protection zone and habitat protection overlay of the RPS and environmental significance overlay in City Plan.

In this regard the proposed development is contrary to the relevant ecological and bushland habitat assessments benchmarks contained within the RPS being the desired environmental outcomes (DEO's), conservation and environmental protection zone code, habitat protection overlay, waterways, wetlands and Moreton Bay overlay code and reconfiguration code.

The proposed development is also contrary to the City Plan and relevant assessment benchmarks including the strategic framework, emerging community zone code and the environmental significance overlay.

Given the long standing planning outcomes incorporated in the relevant statutory planning instruments, weight is also afforded to the Draft South West Victoria Point Local Plan which seeks to re-enforce these ecological and bush land habitat outcomes (refer to following sections in terms of weight applied to other relevant matters).

INFRASTRUCTURE DELIVERY

Sewer

The applicant's civil engineering report states that a new 225mm diameter gravity sewerage main and lift station are the most appropriate sewerage strategy for the western portion of the Victoria Point Structure Plan area and would connect to the existing public sewer network at the location identified below, which will feed to the Victoria Point Sewer Treatment Plant (STP), see **Figure 14** below:

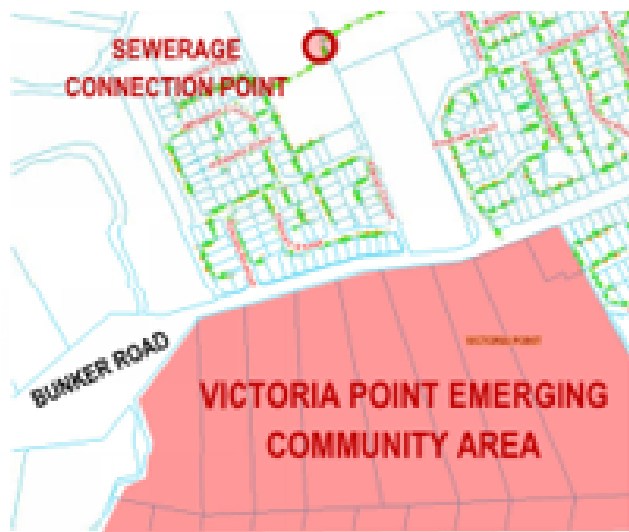


Figure 14 – Victoria Point Sewer Treatment Plan location

The Sewer Network Analysis, prepared by Cardno, concludes that the existing external network has capacity to service the proposed development.

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 PIA the desired environmental outcomes of the RPS v7.1 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 v7.1 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 minimize whole-of-lifecycle costs, is integrated with the existing networks and does not result on 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 which has been undertaken by Council in the drafting of the Victoria Point structure 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.

Further, to minimise whole of life costs and ensure that infrastructure is to be provided in a cost-effective and efficient manner, a gravity sewer is the preferred option of the service provider Redland Water, due to the associated lower operational and maintenance costs. The applicant proposes a lift station however at the northern end of the site, close to Bunker Road. The stated reasons for not providing a full gravity network relate to site constraints associated with the ground levels and existing vegetation. However, this is contrary the conclusions of the applicants own

servicing report, which states that the majority of the site can be serviced via a gravity network, apart from some limited areas along the eastern end, along the creek. See **Figure 15** below.

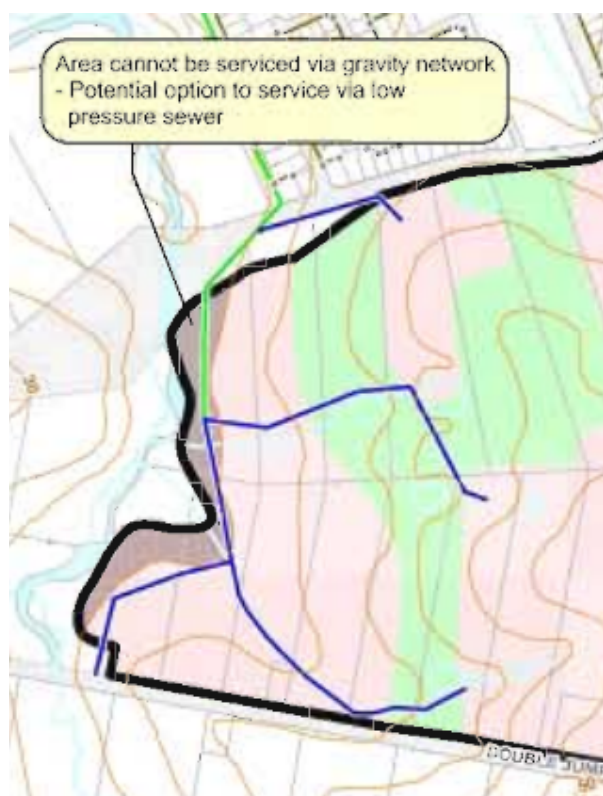


Figure 15 Extract from Applicants Servicing Report

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. Further, it has also not been demonstrated that the necessary infrastructure to service the development would be provided in a cost-effective and efficient manner – and designed to minimise whole-of-lifecycle costs – would be integrated with the existing network and which would not result on adverse impacts on environmental or landscape values.

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 THE ROAD NETWORK

The originally submitted development application was supported by a traffic impact assessment report and assesses the impact of the development on the local and State-controlled networks. In respect to the State-controlled network, the report concluded that the Double jump Road/Cleveland Bay Road intersection is already oversaturated. It had also been assumed that development traffic with a destination in the south along Cleveland Redland Bay Road would use Heinemann Road – Giles Road route for safe access via the Giles Road/Cleveland Redland Bay Road intersection, which was soon to be signalised (note this is now completed).

In respect to the local road network, the Double Jump Road/Bunker Road intersection is already identified at capacity. No interim upgrade options to improve capacity have been identified. It is acknowledged that the LGIP proposes upgrade works in the vicinity of this intersection which, once completed, will address this issue. The traffic impact assessment report states that due to the

proposed layout and staging of the proposed development, traffic generated from the development will be able to avoid use of the critical turn right movement from Double Jump Road into Bunker road, by instead using the Bunker Road development access.

The proposal is for an access onto Bunker Road opposite Estuary Avenue intersection and implementation of a single lane roundabout. An access onto Double Jump Road is also proposed. At the proposed Double Jump Road site access intersection, comparison traffic flow projections indicate that a channelised CHR (s) right turn lane and basic left turn (BAL) left turn lane would be warranted in Double Jump Road at the intersection.

The traffic response prepared in support of the information request response confirms that the revised layout does not materially change the originally submitted traffic impact assessment. In addition, a review of the traffic reports informing the structure plan area was prepared in responding to the information request. The report concludes that (amongst other conclusions relating to the wider Structure Plan area):

- The Victoria Point bypass has been included in Council's planning documents for several years as a relief of congestion on Cleveland Redland Bay Road through Victoria Point. It is stated that Cleveland Redland Bay Road is already at capacity in peak times. It is stated that these intersection capacity constraints can be resolved with signalisation. Those signalisation upgrades are required now, irrespective of development in the structure plan area.
- Double Jump Road is a sub-arterial road carrying a high proportion of traffic. It is stated that this can remain a 2-lane road and does not need to be a 4-lane road as identified in the priority infrastructure plan (PIP).

The 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 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.

The proposed works are shown below in **Figure 16**:

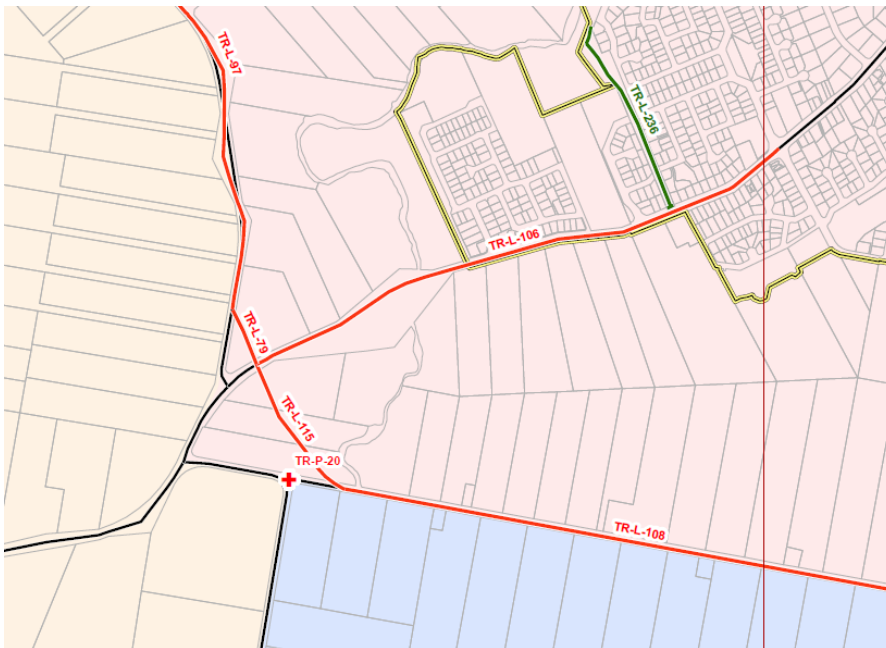


Figure 16 Extract from LGIP Mapping – Transport Network

The proposed development does not make provision for upgrades to Double Jump Road 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.

SITE LAYOUT AND DESIGN

Walkable Neighbourhoods/Cul-de-sacs

The RPS and City Plan applicable to the assessment of the development application both contain provisions relating to the creation of an urban form that promotes walking and cycling. DEO 3.1.5 (1) (b) in the RPS and more specifically S1.2 (c) of the reconfiguring a lot code seeks to create a high level of internal accessibility and S1.2 (e) limit the use of cul-de-sacs, only incorporating these where constraints dictate their use.

In City Plan, the emerging community zone code makes provision for the promotion of a logical pattern of development and the creation of walkable neighbourhoods with high levels of accessibility for pedestrians and cyclists (PO5) and overall outcome 6.2.20.2 (2) (c) and (g). Further, PO14 of the reconfiguring lot code requires a high level of internal access and external connections for pedestrians, cyclists, vehicles and public transport. Particularly, PO15 requires that development maximises the use of a grid pattern layout that avoids the use of cul-de-sacs. The overall outcomes of the reconfiguring a lot code reflect these design outcomes requiring the creation of safe, functional and attractive places that are consistent with the intended outcomes for the zone in which the land is located and the creation of an integrated, efficient and safe movement network, that promotes the use of public transport, walking and cycling (overall outcome 9.3.4.2 (2) (a) (iii)).

An extract of the proposed layout is provided in **Figure 6** of this report. Whilst the north–south road connection is maintained, linking Double Jump and Bunker Road, the development is characterised by lots accessed via a series of cul-de-sacs. It is acknowledged that pedestrian and cycling

connectivity is proposed through open space and environmental corridors, however this is considered peripheral to the site and the design of residential lots does not promote an integrated movement network. The proliferation of residential lots accessed via cul-de-sacs is not considered to support the promotion of a logical pattern of development and creation of well-structured and walkable neighbourhoods with high level of accessibility for pedestrians and cyclists.

Whilst not yet adopted, the City Plan Major Amendment Package (05/19) and draft South West Victoria Point Local Plan include similar provisions to those contained within RPS and City Plan, seeking to reduce the use of cul-de-sacs and encourage well-structured walkable neighbourhoods. Accordingly, whilst only draft, the draft South West Victoria Point Local Plan should be considered as a relevant matter.

The proposal is considered contrary to the DEOs and reconfiguring a lot code in the RPS and emerging community zone code and reconfiguring a lot code in City Plan. The proposed development is also considered contrary to the draft South West Victoria Point Local Plan, as a relevant matter in the assessment of the development application.

Medium Density Residential

The development application as originally submitted proposed an area of medium density residential development adjacent to a proposed local centre on Double Jump Road. In responding to the information request the proposed local centre has been removed, however an area proposed for medium density residential development is retained. Generally, opportunities for medium density housing development are located within areas with good access to services and transport. This is reflected in the desired environmental outcomes (DEOs) for the City in the RPS (3.3.1 (1) (g) – DEO No. 2 – Character and identity) and City Plan strategic framework strategic framework (3.2.2 – Liveable communities and housing strategic intent) and 3.3.1.1 (9) and the strategic outcomes for newly developed communities.

Furthermore, the draft South West Victoria Point Local Plan code reflects the general locational requirements for medium density housing and identifies in the overall outcomes that *“(e) the medium density residential zone provides for medium density living in areas that are close to public transport or centres, consisting of predominantly of townhouses and apartments.”* The proposed areas of medium density residential in the draft South West Victoria Point Local Plan are located further east (closer to the proposed neighbourhood centre and Redland Bay Road).

The proposed area of medium density residential development is not located within close proximity to an existing or proposed centre and is somewhat removed from the internal road (which may be suitable for public transport). As such, it is considered that the development proposes medium density residential development in a location that is not close to a public centre or planned public transport and is not suitable for the increased density proposed. This is considered contrary to the RPS and City Plan and the draft South West Victoria Point Local Plan.

The proposal is considered contrary to the DEOs in the RPS and strategic framework in City Plan. The proposed development is also considered contrary to the overall outcomes of the draft South West Victoria Point Local Plan, as a relevant matter in the assessment of the development application.

LOCAL PARK PROVISION AND LOCATION

The open space and recreation study submitted in response to the information request identifies a number of key principles for multiple use open spaces including, amongst others, the co-location of

formal parks within informal linear corridors. In order to integrate with the existing natural environment and to allow the retention of trees a total park area of 1.0 ha in size is proposed. This exceeds the Desire Standard of Service (DSS) requirement of 0.5 ha in size. An area of 0.5 hectares is proposed and will be embellished in accordance with the DSS.

The proposed park is located within the environmental protection zone and habitat protection overlay (bushland habitat) in the RPS. Development within the environmental protection zone is generally required to minimise adverse impacts on environmental values by providing low key uses. This can include recreational uses that contribute to the public and private landscape network, where they are low-key and have very low impacts upon environmental values. It is accepted that the co-location of parks within the environmental protection zone can be consistent with the overall outcomes for the zone, where impacts to environmental values are low.

In this case it is considered that the additional protection is afforded by the habitat protection overlay. The overall outcomes for the habitat protection overlay seek to ensure that development is designed, sited and managed to protect environmental and habitat values and to achieve a net gain through enhancement planting. In areas identified as bushland habitat the identified outcome is the preservation, management and net gain of large mainland areas of the city where habitat values remain. Specific outcome S2.1 seeks to enhance and secure a net gain in native vegetation. Where locating development within the bushland habitat alternative locations outside these areas should be investigated.

In City Plan the area of the proposed park is included within the environmental significance overlay. The overall outcomes for the code seek to retain and protect areas of ecological significance, through the minimisation in the loss of koala habitat trees, minimisation and mitigation of impacts and facilitating opportunities for safe and viable fauna movement. The proposed recreational park, located within the environmental significance area, reduces the functionality of the corridor by decreasing the ability to rehabilitate this area to gain a minimum core habitat of this corridor of one hundred (100) metres. Recreational areas tend to have lighting for surveillance and safety and clearer areas (vegetation) for crime prevention through environmental design (CPTED) issues and increased activity which is likely to be prejudicial to the ecological functioning of corridor and fauna movement.

In the draft South West Victoria Point Local Plan the location of the recreational park is located outside of the environmental management zone and mapped values of environmental significance and is included within the recreation and open space zone. In this context, as part of the broader environmental values and corridor considerations, this is considered to be a more integrated approach to open space/park planning and the protection and functioning of corridors of ecological significance.

The proposed location of the recreation park is not considered to sufficiently mitigate the adverse effects on environmental and habitat values and compromises the opportunities for safe and viable fauna movement within and between habitat areas. Further, alternative locations outside the identified areas of environmental significance, which will minimise the potential impact upon fauna movement, have not been adequately considered.

The proposal is considered contrary to the DEOs, environmental protection zone code, habitat protection overlay and reconfiguration of a lot code in the RPS and strategic framework, emerging community code, environmental significance overlay and reconfiguring a lot code in City Plan. The proposed development is also considered contrary to the overall outcomes for the environmental management zone and performance outcomes for reconfiguring a lot in the draft South West

Victoria Point Local Plan, as a relevant matter in the assessment of the development application. In addition the proposed location of the local park within an area of identified ecological values as reflected in the existing and proposed zoning and relevant overlays is contrary to the desired standards of service as documented in the LGIP.

PREMATURITY

Pursuant to s45 of the PAct, assessment may be carried out or regard had 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 – within well-structured and walkable neighbourhoods, to facilitate the retention and enhancement of significant waterway and habitat corridors (including encouragement of fauna movement) and other areas of environmental significance; or integrate with surrounding transport/open space networks; or provide the necessary infrastructure requirements (both state and local) to service the development – by way of an agreed funding mechanism.

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.

Implementation of the Draft Structure Plan

Further, it is considered that the proposed reconfiguration would compromise the implementation of the South West Victoria Point Local Plan and the coordinated and efficient development of the area as a well-designed future urban community.

The proposal is considered contrary to City Plan Major Amendment Package (05/19) 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*.

STATE REFERRALS

- **Department of Infrastructure, Local Government and Planning**

The application triggered referral to the Department of Infrastructure, Local Government and Planning (DILGP) pursuant to Schedule 7, table 2, Item 39 – Regional plans of the *Sustainable Planning Regulation 2009* (SPReg). The DILGP provided its formal concurrence agency response on 7 July 2017. The following advice was provided to the assessment manager:

'The final version of the draft South East Queensland Regional Plan 2016, also known as ShapingSEQ, is likely to commence prior to the start of the decision period for this development application. Should this occur, it is acknowledged that the assessment manager in accordance with section 317 of SPA may give weight it is satisfied appropriate to ShapingSEQ.'

Refer to **Attachment 4** for a copy of the referral concurrence agency response.

- **Department of Transport and Main Roads (Third Party Advice)**

In accordance with section 256 of the SPA, Council requested third party advice from the Department of Transport and Main Roads (DTMR). The Department advised that *given the dispersed nature of predicted trips to/from the proposal, it is not seen to be reasonable for TMR*

to request additional analysis to demonstrate the impact of this development on the operation of the state controlled road network. See **Attachment 5** for a copy of the third party advice.

PUBLIC CONSULTATION

The proposed development is impact assessable and required public notification. The application was publicly notified for 15 business days from 11 July 2018 to 3 August 2018. A notice of compliance for public notification was received on 3 August 2018.

Submissions

Refer to **Attachment 6** for a summary of submissions.

STRATEGIC IMPLICATIONS

Legislative Requirements

In accordance with the *Planning Act 2016* this development application has been assessed against the RPS (7.1) and other relevant planning instruments.

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 in the range [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.

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.

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.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Director - Reynolds Planning Pty Ltd	December 2019 – January 2020	Preliminary advice has been incorporated into the report.
Managing Principal – Terrestria Ecological Management	December 2019 – January 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 7.
2. To delegate authority to the Chief Executive Officer to finalise the reasons for refusal after consultation with the relevant experts and Counsel advice.
3. To instruct its solicitors to notify the parties that it opposes the development application, for the reason generally in accordance with those identified in Attachment 7.
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 its 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 its 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 7.
2. To delegate authority to the Chief Executive Officer to finalise the reasons for refusal after consultation with the relevant experts and Counsel advice.
3. To instruct its solicitors to notify the parties that it opposes the development application, for the reasons generally in accordance with those identified in Attachment 7.
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.

[CLICK HERE TO ENTER TEXT.](#)

REASONS FOR REFUSAL

Request to Amend Koala Habitat Mapping

1. The request to amend the koala habitat mapping and high value bushland classification, located on Lots 15, 20 and 21 RP86773 is not supported as the bushland meets with the assessment criteria for bushland habitat areas in the Schedule 11, Part 4, Section 10 of the *Planning Regulation 2017*.

Reconfiguring a Lot Development Permit

A. Environmental Values

1. The development will involve the clearing of non-juvenile koala habitat trees in a bushland habitat area which is prohibited by Schedule 11, Part 2, Section 6 of the *Planning Regulation 2017*.

It has not been demonstrated that the development provides, to the greatest extent practicable, safe koala movement measures that are appropriate for the development and habitat connectivity value of the premises in accordance with Schedule 11, Part 2, Section 2 of the *Planning Regulation 2017*. Alternative safe koala measures and proposed corridors are not an appropriate outcome for the development and habitat connectivity value of the premises.

2. The reconfiguration does not protect and enhance areas where there are opportunities for environmental enhancement activities to support significant ecosystems, protect koala habitat and provide natural corridor linkages between conservation areas in accordance with the Strategic Framework. Further, the proposed east-west natural corridor linkage is inadequate for the safe movement of native fauna as the corridor is located adjacent to Bunker Road, a sub-arterial road, and fauna friendly fencing to prevent native fauna from moving onto Bunker Road would not be effective as it is severed by the proposed road access to Bunker Road. The proposed east-west corridor linkage is not a suitable alternative to the equivalent east-west corridor in the draft South West Victoria Point Local Plan for the fauna safety grounds above and in addition does not allow for the long-term conservation of the mapped bushland habitat and Matter of State Environmental Significance that the development proposes to remove.
3. Future development and a proposed future bio-retention basin is located within the minimum 50 metre buffer distance and riparian vegetation protection area of Little Erapah Creek in accordance with the Waterway corridors and wetlands overlay code of the City Plan. As the design of the bio-retention basin does not form part of this development application, the development has not demonstrated that the development protects, enhances, manages and minimize

impacts on environmental values of Little Eprapah Creek and its associated ecological value in line with the Strategic Framework and Healthy waters code of the City Plan.

B. Infrastructure Delivery

4. It has not demonstrated that the required local and trunk infrastructure requirements can be met, through an agreed funding mechanism as required by the Strategic Framework of the City Plan.
5. It has also not been demonstrated that the necessary infrastructure to service the development would be provided in cost-effective and efficient manner, which is designed to minimize whole-of-lifecycle costs, would be integrated with the existing network and which does not result on adverse impacts on environmental or landscape values in accordance with the Infrastructure works code of the City Plan.

C. Traffic

6. It has not been demonstrated that the impacts upon local and state road networks can be met...
7. Further, it has not been demonstrated that the development is undertaken in a way that optimizes available capacity and established investment in the road network for the wider Victoria Point Structure Plan area to ensure that development occurs in an orderly and cost effective manner supported by an integrated network.

D. Site Layout and Design

Walkable Neighbourhoods

8. The proliferation of residential lots accessed via cul-de-sacs is not considered to support the promotion of a logical pattern of development and creation of well-structured and walkable neighbourhoods with high level of accessibility for pedestrians and cyclists in accordance with the Strategic Framework and Reconfiguring a lot code of the City Plan.

Medium Density Residential

9. The development proposes medium density residential development in a location that is not close to a public centre or planned public transport and is not suitable for the increased density proposed as required by the Strategic Framework.

E. Park Provision

10. The proposed location of the recreation park, is not supported in areas of identified environmental significance in accordance with the desired standards of service of the Local Government Infrastructure Plan. Further, alternative locations

outside the identified areas of environmental significance, which will minimise the potential impact upon fauna movement have not been adequately considered.

F. Prematurity

Structure Planning

11. The development has not demonstrated that the land will be used efficiently, within well-structured and walkable neighbourhoods, would facilitate the retention and enhancement of significant waterway and habitat corridors (including encouragement of fauna movement) and other areas of environmental significance, would integrate with surrounding transport/open space networks or would provide the necessary infrastructure requirements (both state and local) to service the development, by way of an agreed funding mechanism as required by the Strategic Framework.

Implementation of the Draft Structure Plan

12. Further, approval of the development would be premature and the reconfiguration would compromise the implementation of the draft South West Victoria Point Local Plan and the coordinated and efficient development of the area as a well-designed future urban community.

SEQRP 2017

13. The reconfiguration fails to ensure that the planning and delivery of land use and infrastructure for new communities are integrated and sequenced in order to deliver complete communities in a timely manner.

14. The reconfiguration fails to protect and enhance the regional biodiversity network that includes Matters of State Environmental Significance and koala habitat and a network of interconnected koala habitat.

CONFLICT WITH RELEVANT PLANNING INSTRUMENTS

Reconfiguring a Lot Development Permit

A. Environmental Values

The proposed development does not comply with the following assessment benchmarks in the *Planning Regulation 2017 (PReg)*:

- a) the reconfiguration does not comply with the assessment benchmarks identified in Schedule 11, Part 2, Section 2 (a) and 6 (3) (a) and (d) of the *Planning Regulation 2017*.

The proposed development does not comply with the following provisions of the Redlands Planning Scheme (**RPS**):

- b) Part 3.1.2 (1) (a) (i) (c), (d) and (e) of the desired environmental outcome No.1 – Natural Environment.
- c) Overall outcome 4.6.7 (2) (a) (i) (a), (b), (c) (d) of the environmental protection zone code.
- d) Overall outcome 5.7.7 (2) (a), (c), (d) and (e) of the habitat protection overlay.
- e) Specific outcomes S1.1 and S2.1 of the habitat protection overlay.
- f) Overall outcomes 5.12.7 (2) (a) (ii), (iii) and (vi) of the waterways, wetlands and Moreton Bay overlay code.
- g) Specific outcome S1.1 (1), (2) (a) and (h), S2 (1) waterways, wetlands and Moreton Bay overlay code.
- h) Overall outcomes 7.11.3 (2) (f) (ii) and (j) of the reconfiguration of a lot code.
- i) Specific outcome S1.1 (1) (b) of the reconfiguration of a lot code.

The proposed development does not comply with the following provisions of the Redland City Plan (**City Plan**):

- a) 3.2.4 Strategic intent – environment and heritage in the strategic framework.
- b) 3.3.1.4 (4) – Newly developing communities in the strategic framework.
- c) 3.5.1.1 (1), (2), (3) and (8) – the natural environment.
- d) Overall outcome 6.2.20.2 (2) (h) and (j) of the emerging community zone code.
- e) Performance outcome PO5 (12) and PO13 of the emerging community zone code.
- f) Overall outcome 8.2.4.2 (2) (a), (b), (c), (d), (e), (f), and (g) of the environmental significance overlay.
- g) Specific outcome PO1, PO2, PO4, PO6, PO8, PO10, PO12, PO13, PO14, PO15 of the environmental significance overlay.
- h) Overall outcome 8.2.11.2 (2) (a) and (c) of the waterway corridors and wetlands overlay code.
- i) Performance outcome PO2 (6a) of the waterway corridors and wetlands overlay code.

The proposed development does not comply with the following provisions of the draft South West Victoria Point Local Plan (**draft Local Plan**):

- a) Overall outcomes 7.2.1.2 (2) (h), (i), (9), (10), (11) (a) (xi), (xii), (d) of the draft Local Plan.
- b) Performance outcomes PO1, PO3, PO5, PO6, PO7, PO9 and PO10 – conservation zone assessment benchmarks.
- c) Performance outcome PO1, PO2, PO4, PO5, PO6 of Table 7.2.1.3.7 – environmental management zone assessment benchmarks.
- d) Performance outcome PO4, PO7, PO23 and PO26 – reconfiguration assessment benchmarks.

B. Infrastructure Delivery

The proposed development does not comply with the following provisions of the RPS

- a) Part 3.1.6(1) (a), (b), (c), (e), (f), (g) of the desired environmental outcome No. 5 – Essential Services.
- b) Overall outcomes 8.7.3 (2) (a) of the infrastructure works code.
- c) Specific outcomes S3 and S4 of the infrastructure works code.
- d) Overall outcomes 7.11.3 (2) (e) (i) and (f) (vii) of the reconfiguration code.
- e) Specific outcomes S1.4 (1) (b), (c) (i) and (iii) of the reconfiguration code.

The proposed development does not comply with the following provisions of the City Plan:

- a) Part 7.7.1.1 (1), (2), (3), (4), (5), (6), (7) – infrastructure, of the strategic framework.
- b) Overall outcome 9.3.2.2 (2) of the infrastructure works code.
- c) Performance outcomes PO4, PO5, PO6, PO7, PO8 and PO10 of the infrastructure works code.
- d) Overall outcome 9.3.4.2 (2), (a), (vi) and (vii) of the reconfiguring a lot code.
- e) Performance outcomes PO9, PO37 of the reconfiguring a lot code.

The proposed development does not comply with the following provisions of the draft Local Plan:

- a) Overall outcomes 7.2.1.2 (2) (j) and (k), (11) (reconfiguring a lot) (g) and (h), (12) trunk infrastructure (J) of the draft Local Plan code.

C. Traffic

The proposed development does not comply with the following provisions of the RPS:

- a) Part 3.1.4 (1) (c) of the desired environmental outcome No. 4 – Access and mobility.
- b) Overall outcomes 8.1.3 92) (a) (i) of the access and parking code.
- c) Overall outcomes 8.7.3 (2) (a) of the infrastructure works code.
- d) Specific outcomes S7 of the infrastructure works code.

- e) Overall outcomes 7.11.3 (2) (f), (iii) and (vii) of the reconfiguration code.
- f) Specific outcomes S1.4 (1) (b), (c) (i) and (iii) of the reconfiguration code.
- g) Priority Infrastructure Plan.

The proposed development does not comply with the following provisions of the City Plan:

- a) Part 3.3.1.1 (9) (c) –liveable communities and housing of the strategic framework.
- b) Part 3.3.1.4 (8) – Newly developing communities of the strategic framework.
- c) Part 3.7.1.1 (1), (2), (3), (6) – Infrastructure theme in the strategic framework.
- d) Overall outcome 6.2.20.2 (2) (b), (f), (g) of the emerging community zone code.
- e) Performance outcome PO3 and PO5 (2) of the emerging community zone code.
- f) Overall outcomes 9.3.5.2 (1) of the transport, servicing, access and parking code.
- g) Performance outcome PO3 (1) of the transport, servicing, access and parking code.
- h) Overall outcome 9.3.4.2 (2), (a), (iii) and (vii) of the reconfiguring a lot code.
- i) Performance outcomes PO14 (6) of the reconfiguring a lot code.
- j) The Local Government Infrastructure Plan.

The proposed development does not comply with the following provisions of the draft Local Plan:

- a) Overall outcome 7.2.1.2 (2) (a), (b) and (k) of the draft Local Plan code.
- b) Overall outcome 7.2.1.2 (11) (c) (i), 12 (iv)
- c) Performance outcome PO20 of the reconfiguration - benchmarks for assessable development in the draft Local Plan code.

k) Park Provision

The proposed development does not comply with the following provisions of the RPS:

- a) 3.1.2 (1) (a) (i) and (ii), (c) of the desired environmental outcome No. 2 – Character and identity.
- b) Overall outcome 4.6.7 (a) (i) (a), (c) and (d), (b) (ii) and (c) of the environmental protection zone code.
- c) Specific outcomes S2.1 and S2.2 of the environmental protection zone code.
- d) Overall outcome 5.7.7 (2) (a), (b), (c), (d) and (e) of the habitat protection overlay code.
- e) Performance outcome S1.2 and S2.1 of the habitat protection overlay code.
- f) 7.11.3 (2) (J) of the reconfiguring a lot code.
- g) Specific outcome S1.1 (1) (b), S1.3 and S1.6 (4) of the reconfiguring a lot code.

The proposed development does not comply with the following provisions of the City Plan:

- a) Strategic framework 3.2.4 – Strategic intent – Environment and heritage.

Strategic Framework 3.3 – theme Liveable communities and housing and strategic outcomes for newly developed communities 3.3.1.4 (4).

- b) Overall outcome 6.2.20.2 (j) of the emerging community zone code.
- c) Performance outcome PO5 (12) and PO13 of the emerging community zone code
- d) Overall outcome 8.2.4.2 (2) (a), (b), (c), (d), (e), (f) and (h) of the environmental significance overlay code.
- e) Performance outcome PO2, PO3, PO4, PO5, PO6, PO7, PO8, PO11, PO14, PO15 and PO18 of the environmental significance overlay code.
- f) Overall outcome 9.3.4.2 (2) (a) (iv) of the reconfiguring a lot code.
- g) Performance outcome PO3 (2), (3), PO5 (2), PO45 and PO46 of the reconfiguring a lot code.

The proposed development does not comply with the following provisions of the draft Local Plan:

- d) Overall outcome 7.2.1.2 (2) (b) and (i), (10) – environmental management zone (a), (b) (d), (11) – reconfiguring a lot (a) and (d) of the draft Local Plan code.
- e) Performance outcome PO1, PO2, PO5 and PO6 of the environmental management zone - benchmarks for assessable development in the draft Local Plan code.
- f) Performance outcome PO31 of the reconfiguration – reconfiguration assessment benchmarks.

I) Site Layout and Design

Walkable Neighbourhoods

The reconfiguration does not comply with the following provisions of the RPS:

- a) Part 3.1.5 (1) (b) of the desired environmental outcome No. 4 – Access and Mobility.
- b) Overall outcome 7.11.3 (2) (f) (iii) of the reconfiguration code.
- c) Specific outcome S1.2 (1) (c), (e) of the reconfiguration code.

The reconfiguration does not comply with the following provisions of the City Plan:

- a) Strategic intent - Part 3.2.2 (Liveable communities and housing) of the Strategic framework and Strategic outcome 3.3.1.4 (2) (Newly developing communities) of the Liveable communities and housing theme of the Strategic framework.
- b) Overall outcome 6.2.20.2 (2) (c) and (g) of the emerging community zone code.
- c) Performance outcome PO5 (1), (3) and (4) of the emerging community zone code.
- d) Overall outcome 9.3.4.2 (2) (a) (iii) of the reconfiguring a lot code.
- e) Performance outcome PO14 (1), (2) and (3) and PO15 of the reconfiguring a lot code.

The reconfiguration does not comply with the following provisions of the draft Local Plan:

- a) Overall outcome 7.2.1.2 (2) (a), (4) (i) – Low density residential zone, 11 (a), (c) – Reconfiguring a lot of the draft Local Plan code.

- b) Performance outcome Table 7.2.1.3.8 – Reconfiguration benchmarks PO17 (1), (3), PO18 and PO19 of the draft Local Plan code.

Medium Density Residential

The reconfiguration does not comply with the following provisions of the RPS:

- a) 3.3.1 (1) (g) of the desired environmental outcome No. 2 – Character and identity.

The reconfiguration does not comply with the following provisions of the City Plan:

- a) Strategic framework (3.2.2 – Liveable communities and housing strategic intent) and 3.1.1 (9) and the strategic outcomes for newly developed communities.

The reconfiguration does not comply with the following provisions of the draft Local Plan.

- a) Overall outcome 7.2.1.2 (2) (e) of the draft Local Plan code.

m) Prematurity

The reconfiguration does not comply with the following provisions of the RPS:

- a) 3.3.1 (1) (c) and (d) of the desired environmental outcome No. 2 – Character and identity.

The reconfiguration does not comply with the following provisions of the City Plan:

- a) Strategic framework 3.2.2 – Strategic intent – Liveable communities and housing.
- b) Strategic framework 3.3 – theme Liveable communities and housing and strategic outcomes for newly developed communities 3.3.1.4 (2), (3), (4), (5), (8).
- c) Overall outcome 6.2.20.2 (2) (a), (b), (f), (g) and (j) of the emerging community zone code.
- d) Performance outcome PO3, PO5 (1), (2), (3), (4) and (12) of the emerging community zone code.
- e) Overall outcome (1) and (2) (a) of the reconfiguring a lot code.

The reconfiguration does not comply with the following provisions of the draft Local Plan:

- f) Overall outcome 7.2.1.2 (2) of the draft Local Plan code.

Implementation of the Draft Structure Plan

The reconfiguration does not comply with the following provisions of the draft Local Plan:

- a) Overall outcome 7.2.1.2 (2) (b) and (i), (10) – environmental management zone (a), (b) (d), (11) – reconfiguring a lot (a) and (d) of the draft South West Victoria Point local plan code.
- b) Performance outcome PO1, PO2, PO5 and PO6 of the environmental management zone - benchmarks for assessable development in the Local Plan code.
- c) Performance outcome PO31 of the reconfiguration – benchmarks for development that is assessable development - reconfiguration assessment benchmarks.

SEQRP 2017

The reconfiguration does not comply with the following parts of the South East Queensland Regional Plan 2017 (Shaping SEQ):

- a) Chapter 3, Part A, Goal 1: Grow, Element 3: New Communities.
- b) Chapter 3, Part A, Goal 4: Sustain, Element 2: Biodiversity and Element 3: Koala conservation.

Particulars

Environmental Values

1. The development fails to provide for the east-west and north-south movement of Koalas through natural corridors as it will involve the clearing of koala habitat trees for urban development which will adversely affect the Koala population.
2. The development does not protect and enhance natural corridors where there are opportunities for environmental enhancement activities to support significant ecosystems, protect koala habitat and improve natural corridor linkages between bushland areas.
3. The proposed east-west fauna corridor is not adequate for the safe movement of Koalas as the corridor is located adjacent to Bunker Road, a sub-arterial road, and the proposed road access to Bunker Road. It is disconnected from protected vegetation to the east of the subject land and is further severed by the proposed recreation park.
4. The development does not propose safe fauna movement measures that are appropriate for the development and habitat connectivity.
5. It has not been demonstrated that the development protects, enhances, manages and minimises impacts on the environmental values of Little Erapah Creek, including its riparian vegetation.
6. The proposed recreation park is located on an area of environmental significance which is not appropriate. Alternative locations outside areas of environmental significance have not been adequately considered.

Walkable Neighbourhoods

7. The high number of residential lots located within dead end streets does not support the promotion of a logical pattern of development and creation of a well-structured and walkable neighbourhood.

Medium Density Residential

8. The density of development under the proposed reconfiguration is inappropriate having regard to its proximity to Centres and public transport.

Transport

9. It has not been demonstrated that there has been adequate provision for any impacts the proposed reconfiguration may have upon the local road networks.

Wastewater

10. The proposed reconfiguration relies upon the mechanical pumping of wastewater which is unacceptable due to the whole-of-lifecycle cost of pumping infrastructure.

11. 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

12. The Structure Plan for the proposed reconfiguration does not adequately consider the environmental corridors and the provision and sequencing of infrastructure.
13. 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.
14. The subject land is located outside the Priority Infrastructure Area of the Local Government Infrastructure Plan.
15. The proposed reconfiguration's reliance on mechanical pumping of waste water is unacceptable due to the whole-of-lifecycle cost of pumping infrastructure compared to a gravity fed solution.
16. The development will require the upgrade of sewerage treatment plants, out of sequence with and to a greater capacity than the upgrades planned for in the Local Government Infrastructure Plan.
17. The extent of the necessary upgrades to infrastructure and the shortfall in bring-forward costs have not been 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

18. 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.


.....
Redland City Council
Solicitor for the Respondent