

Senate Hearing Question:

Senator CAMERON:

You know what submissions the Property Council made. You would know what responses the government made. If you want to send the documentation down, that is okay. But are you in a position to provide details of the specific requests that the Property Council made or the demands that they made to government and government's response on that?

Response:

Consultation by the Queensland Government relating to the development of the *State Planning Policy 2/10 Koala Conservation in South East Queensland* (SPP) and the *South East Queensland Koala Conservation State Planning Regulatory Provisions* (SPRP) was carried out by the Department of Environment and Resource Management (DERM) and the Department of Local Government and Planning (DLGP) as a joint initiative.

Details of the consultation process are available in the attached report, "SPP and SPRP for Koala Conservation – consultation report", (Attachment A). The details of how submissions were reviewed and analysed is also available in this report. Key points to note are that each individual issue raised by submitters was recorded. The individual issues were then grouped into strategic themes.

279 submissions were made of which 27.5% were from commercial organisations, 25.7% from private individuals and 20.2% from community organisations. 18.8% of submissions came from Local Government. Particular attention was paid to Local Government concerns around the 'workability' of the proposed framework as Local Government were to be responsible for the implementation of the planning framework.

It is important to note that an independent auditor was appointed to monitor and comment on the consultation process, provide a peer review and ensure that the analysis methodology was rigorous and consistent.

The Property Council of Australia lodged two submissions with the Queensland Government relating to the development of the *State Planning Policy 2/10 Koala Conservation in South East Queensland* (SPP) and the *South East Queensland Koala Conservation State Planning Regulatory Provisions* (SPRP), as follows:

- Submission 1, dated 1 December 2009, in response to the release of the exposure drafts of the SPP and SPRP, and
- Submission 2, dated 5 March 2010, in response to the release of the formal consultation drafts of the SPP and SPRP.

The issues raised in these Property Council submissions were mainly concerned with koala habitat mapping, particularly with respect to validation and ground-truthing, as well as other issues concerning property rights, implementation of the new planning scheme, Biodiversity

Development Offset Areas (BDOA), conflicts with the South East Queensland Regional Plan, and exemptions.

Each of these issues is a Theme topic in the consultation report (Attachment A). Changes to the planning instruments were recommended if submissions were analysed as highlighting weaknesses in the approach such that planning instruments were unlikely to deliver the required outcomes. As such, some of the points raised by the Property Council were addressed, particularly if their point coincided with similar views from across the range of stakeholders. If however, a topic raised in a submission did not improve the likelihood of the desired outcomes being achieved, or was contrary to the stated objectives of the planning framework, no change was made.

Some examples of the Property Council's concerns and the Queensland Government's response, is outlined below.

In their submissions, The Property Council did not agree with the mapping methodology and believed the mapping used was unsuitable for use as a regulatory instrument. They were also concerned that the ground-truthing and validation process was inadequate. The mapping was retained by the Queensland Government, however more clarifying detail was incorporated into the planning framework on ground-truthing to improve understanding of the requirements.

In a further example, the Property Council raised concerns over the habitat retention requirements the Government's draft proposals. They were concerned that it would result in 'tufts of green' rather than landscape level green corridors. This approach was amended in the final framework to require retention of intact bushland habitat in the priority areas of Koala Coast and Pine Rivers, and provide for offsetting of higher value, disturbed habitat at a rate of 5 to 1, in order to help build larger, better connected, more intact habitat areas.

BACKGROUND

- The Property Council of Australia lodged a submission on both the exposure draft (1 December 2009) and formal consultation draft (5 March 2010) of the SPP and SPRP (total of two submissions).
- Exposure drafts of the SPP and SPRP (including mapping) were made available from October-November 2009, prior to finalising and releasing the formal consultation drafts. All late submissions were considered during this process.
- A total of 86 written submissions were received on the exposure draft instruments.
- To enhance the consultation drafts, feedback received through the exposure draft process informed the development of these instruments.
- The draft SPP and draft SPRP were released for public comment on 23 December 2009 as part of the formal consultation draft process. The public consultation period for the instruments and supporting guidelines ended on 28 February 2010.
- PCA made late submissions in both instances, however these submissions were considered in the process as properly made submissions.
- Strong interest was shown in the draft instruments during the formal draft consultation period, with a total of 279 submissions, including 11 late submissions. Within these submissions, almost 1500 individual issues were raised.
- During the submissions analysis process, all 1500 issues were coded according to a number of Themes e.g., mapping, conflict with the South East Queensland Regional Plan, exemptions, property rights, BDOAs, administrative issues, etc.
- The consultation report summarises the issues raised during the formal consultation period in accordance with these set Themes, presenting the key issues for each them, the joint departmental assessment process (i.e. DIP and DERM) and the recommendations about proposed changes to the instruments arising from this analysis.

SPP and SPRP for Koala Conservation

Consultation report

This report details consultation undertaken on the Draft South East Queensland Koala Conservation State Planning Policy and the Draft South East Queensland Koala Conservation State Planning Regulatory Provisions. The findings of this report have been incorporated into the final South East Queensland Koala Conservation State Planning Policy and final South East Queensland Koala Conservation State Planning Regulatory Provisions.

30 April 2010

Prepared by:

Sustainable Communities

Department of Environment and Resource Management

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Glossary of terms

BDOA	Biodiversity development offset area
DERM	Department of Environment and Resource Management
DIP	Department of Infrastructure and Planning
HVM	Habitat values mapping
IDAS	Integrated development assessment system
IGA	Identified growth area
KCP	Nature Conservation (Koala) Conservation Plan 2006 and Management Program 2006-2026
KPA	Koala planning area
KHV	Koala habitat values
KSFM	Koala safety fencing and measures
LGA	Local government authority
QHAS	Queensland Housing Affordability Strategy
RLRPA	Regional landscape and rural production area
SEQ	South-east Queensland
SEQKPA	South-east Queensland koala protection area
SEQRP	South East Queensland Regional Plan 2009 - 2031
SPA	<i>Sustainable Planning Act 2009</i>
SPP	State planning policy
SPRP	State planning regulatory provisions
UF	Urban footprint
Western SEQ	Local government areas of Somerset, Lockyer Valley, Toowoomba and Scenic Rim regional councils

Introduction

This consultation report has been prepared by the Department of Environment and Resource Management (DERM) and the Department of Infrastructure and Planning (DIP) to assist the Minister for Climate Change and Sustainability in the consideration of submissions on the Draft South East Queensland Koala Conservation State Planning Policy and the Draft South East Queensland Koala Conservation State Planning Regulatory Provisions.

Under Section 63(1)(a) of the *Sustainable Planning Act 2009* (SPA), the Minister for Climate Change and Sustainability as the eligible minister must consider each properly made submission about the draft instruments. This consultation report provides information for the Minister for Climate Change and Sustainability, the planning Minister, submitters and the public in relation to the consideration of submissions and responses in preparation of the final instruments.

The feedback received during the consultation process has provided input into the finalisation of the Koala Conservation State Planning Policy (SPP) and State Planning Regulatory Provisions (SPRP). The content of this report has been considered by both the Minister for Climate Change and Sustainability and the planning Minister in the finalisation of these instruments.

This consultation report summarises the consultation program, the submissions review and analysis process, the issues raised in the submissions (submission summary report), analysis of the submissions and recommendations about proposed changes to the instruments arising from that analysis.

Background

The SPP and SPRP have been prepared by DIP and DERM to reflect koala conservation policies under the South East Queensland Regional Plan 2009–2031 (SEQRP), which was released in July 2009.

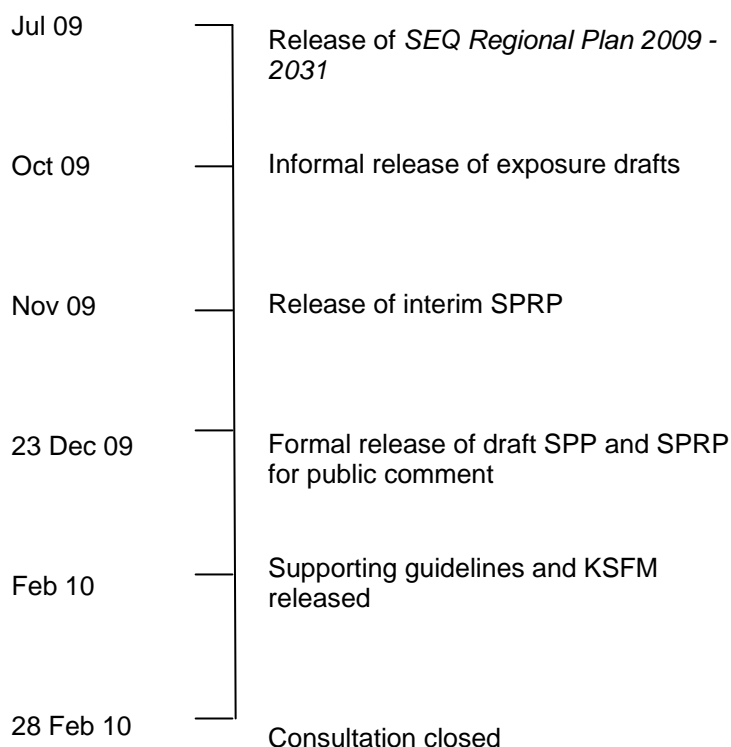
Exposure drafts of the SPP and SPRP (including mapping) were made available for informal, targeted consultation with local government and state agencies in October–November 2009, prior to finalising and releasing the formal drafts.

Concurrent with the exposure drafts, an interim SPRP was introduced protecting areas from pre-emptive clearing and development until the introduction of the final SPP and SPRP.

The draft SPP and draft SPRP were released for public comment on 23 December 2009 by the Honourable Stirling Hinchliffe MP, Minister for Infrastructure and Planning and the Honourable Timothy Mulherin MP, acting Minister for Climate Change and Sustainability. The public consultation period for the instruments and supporting guidelines ended on 28 February 2010. A total of 279 submissions were received.

In early February 2010, supporting guidelines for the draft SPP and the SPRP as well as the Koala Safety Fencing and Measures (KSFM) Guideline were also made publicly available for review and comment. The timeline for the release of the instruments and associated documents is shown in Figure 1.

Figure 1: Timeline for release of draft SPP and SPRP and associated documents



Koala conservation in south-east Queensland

Koala populations in south-east Queensland are under serious threat from development, cars, dogs and disease. In response to reported declines in populations in the Koala Coast and Pine Rivers areas, in December 2008, the Queensland Government introduced the Koala Response Strategy, committing to a number of planning and management actions to protect koalas. The overriding goal of the strategy is for a net increase in mature and actively regenerating koala habitat across south-east Queensland by 2020.

The new planning instruments – the SPP and SPRP – will complement other measures being implemented and will help increase the level of protection provided to koalas and their habitat and mitigate the impact of development on koalas in south-east Queensland.

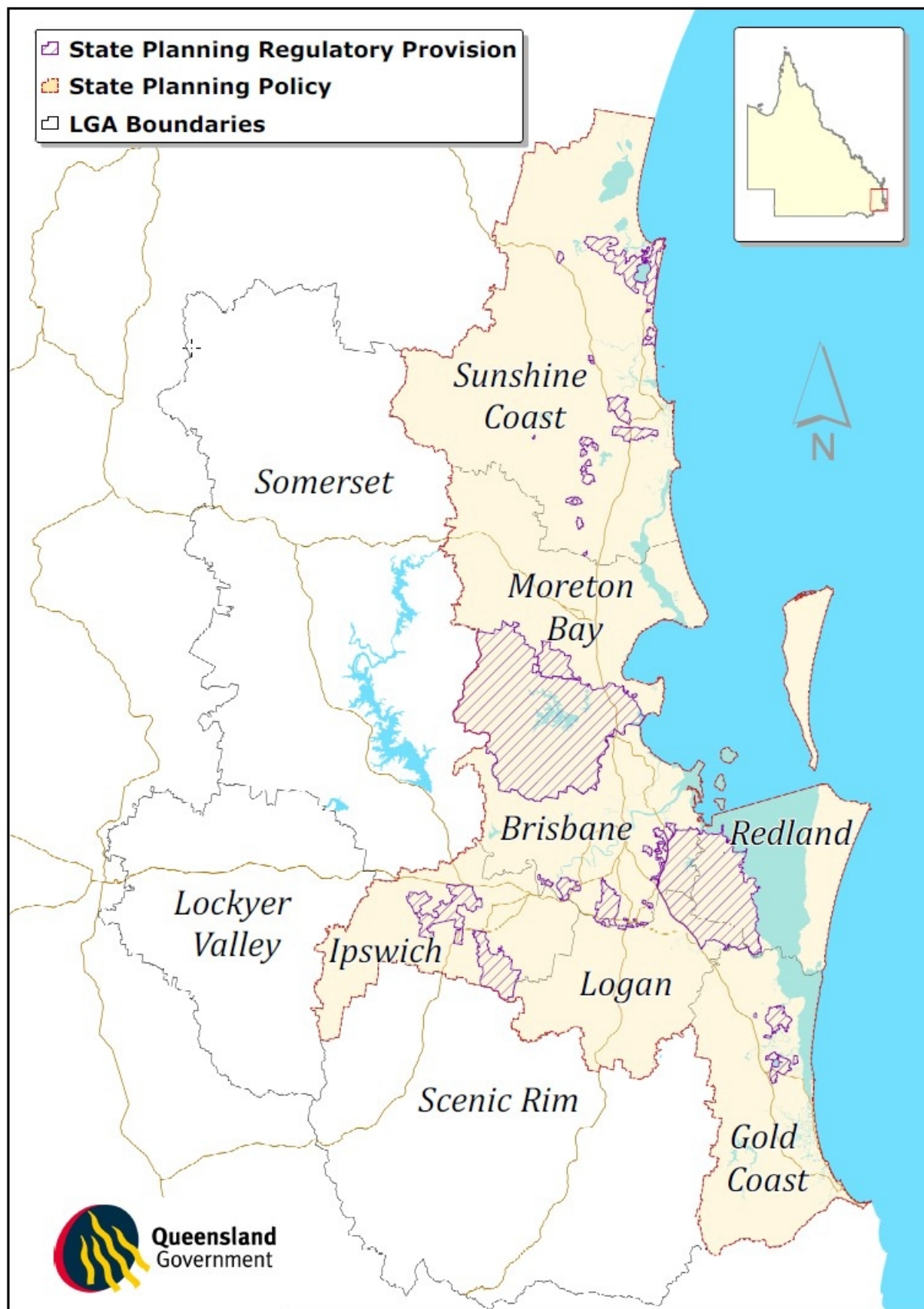
The finalised SPP will apply to the local government areas in the South East Queensland Koala Protection Area (SEQKPA), where south-east Queensland's koalas are under the most threat. These are the local government areas of Sunshine Coast Regional Council, Moreton Bay Regional Council, Brisbane City Council, Redland City Council, Ipswich City Council, Logan City Council and Gold Coast City Council.

The finalised SPRP will apply to:

- areas of the highest priority for koala conservation action. These areas include the former Pine Rivers Shire Council area (now part of Moreton Bay Regional Council) and the Koala Coast area (part of Brisbane, Logan and all of Redland local government areas); and
- balance areas which are currently identified under the Nature Conservation (Koala) Conservation Plan 2006 and Management Program 2006-2026 (KCP) and the interim koala habitat protection area under the interim SPRP.

The areas to which the SPP and SPRP applies is shown in Figure 2.

Figure 2: SPP and SPRP area



Koala conservation State planning instruments

A key goal of the SPP and SPRP is to assist in maintaining the viability of major koala populations across the region by increasing the size and quality of their habitat. The SPP ensures that koala conservation is considered in high level and strategic planning processes, including local government planning schemes, to provide long-term benefit. The SPP is complemented by the SPRP which ensures koala conservation is considered in the Integrated Development Assessment System (IDAS), to have immediate effect in areas where at-risk populations of koalas are located.

State planning policies (SPPs)

State planning policies are planning instruments the planning Minister (or any Minister in conjunction with the planning Minister) can make to protect things that are of interest to the State. The draft SPP for koala conservation complements the draft SPRP by providing direction to local governments and State agencies on how land use and infrastructure planning must consider koala conservation and habitat protection outcomes in the SEQKPA.

The SPP informs the preparation and amendment of local planning schemes, master planning and structure planning processes and the designation of land for community infrastructure purposes. The SPP reflects the latest koala habitat mapping and the koala conservation policies contained in the SEQRP.

State planning regulatory provisions

An SPRP is an overarching planning tool which, in the case of any inconsistencies, prevails over other planning instruments (such as local government planning schemes). An SPRP provides a single overarching planning instrument that can be applied in a range of circumstances, with the ability to regulate and prohibit development. Development decisions cannot be made which are inconsistent with a SPRP.

The SPRP specifies certain types of development as being prohibited from occurring and also sets out certain requirements that local government and other parties must assess development applications against in order to minimise the impact of new development on koalas.

The draft SPRP, released in December 2009, did not have regulatory effect in its draft form. Therefore, an interim SPRP was introduced to avoid potential adverse consequences (such as pre-emptive clearing) which may arise whilst the draft SPRP was publicly available for comment. Submissions received about the interim SPRP that made representations about the draft SPRP or SPP informed the making of the SPP and SPRP.

Consultation program

The draft SPP and SPRP were released for public consultation on 23 December 2009, with consultation closing on 28 February 2010. Under section 60 of SPA, the consultation period for an SPRP must be at least 30 business days and for an SPP at least 40 business days (excluding 26 December to 1 January inclusive and excluding public holidays). The consultation period for the draft instruments met the statutory time period, being for a total of 41 days.

For the formal consultation period, a consultation program was undertaken with key stakeholder groups, supported by communication activities to inform the community about the release of the draft SPP and SPRP and the timeframes for lodging submissions. This program was aimed at fulfilling the statutory requirements of the SPA as well as ensuring broader awareness among interested stakeholders who could elect to make a submission. The consultation program consisted of the following:

- a media statement on 23 December 2009 advising of the release of the drafts for public comment. Subsequent media releases were issued on 28 January and 25 February 2010 to encourage submissions
- gazettal and public notice in The Courier-Mail
- development of material for the DIP and DERM websites including web text, copies of the draft instruments and associated guidelines, frequently asked questions, an interactive mapping tool and information on how to lodge a properly made submission
- fact sheets outlining the purpose, application and broad content of the SPP and SPRP
- meetings with local government, State agencies, quarry and cement industry representatives, development industry stakeholders and the Premier's Koala Taskforce
- online consultation through the State Government 'Have Your Say' website.

Copies and information about the proposed new koala state planning instruments were available from www.derm.qld.gov.au or DERM, Brisbane office, Level 3, 400 George Street, Brisbane. Links were included on the

DIP website to connect through to the DERM website.

To enhance the consultation drafts, exposure drafts of the documents were released for approximately one month for discussion with key stakeholders. During this period, meetings were held with local government to discuss workability issues associated with implementation of the new instruments. Feedback received through the exposure draft process informed the development of these instruments.

Copies of the exposure draft SPRP were available on the DERM website (with links to the DIP website) and the exposure draft SPP was available upon request from DERM. A total of 86 written submissions were received on the exposure draft instruments.

Public response

Strong interest was shown in the draft instruments, with a total of 279 submissions, including 11 late submissions. Within these submissions, almost 1500 individual issues were raised.

Under section 63 of the SPA, the Minister for Climate Change and Sustainability must consider each properly made submission about the draft instruments. The SPA sets out the requirements for a properly made submission, which requires that a submission:

- is in writing and, unless the submission is made electronically under SPA, is signed by each person who made the submission
- is received during the consultation period
- states the name and address of each person who made the submission
- states the grounds of the submission and the facts relied on to support the submission
- is made to the eligible Minister.

For the purposes of receipt and analysis, all submissions were considered properly made and considered in the analysis.

Submitter type

Table 1 shows the number and percentage of submissions and issues raised from each type of submitter. The majority of the submissions were from commercial organisations followed closely by private individuals. A smaller number of submissions were received from community and professional organisations. All local governments to which the draft planning instruments apply made submissions and some State agencies also made submissions.

Table 1. Breakdown of submitter type

Submitter type	Submissions	Issues	Percentage
Commercial organisation	124	403	27.5%
Private/individual	110	377	25.7%
Community organisation	24	296	20.2%
Professional organisation	7	101	6.9%
Local government	11	276	18.8%
State agency	3	13	0.9%
Total	279	1466	100%

Number of issues raised

Table 2 provides a breakdown of the total number of issues raised across all submissions. This tally includes every issue raised across every submission, including each time a common issue was raised. For reporting and analysis, 14 distinct themes were identified.

Mapping issues, proposed changes to the instruments and comments about the policy approach collectively

accounted for more than half of all issues raised.

Species conservation issues accounted for a further 10 per cent of issues raised with all other issues accounting for less than 10 per cent of comments each.

An explanation of each theme is provided in Appendix A.

Table 2. Types of issues raised

Submission themes	Issues raised	
Mapping	323	22%
Instrument provisions/ changes	241	16.4%
Policy approach	208	14.2%
Species/conservation	152	10.4%
Exemptions	100	6.8%
Conflict with SEQRP	86	5.9%
Implementation	75	5.1%
Offsets	68	4.6%
Conflict with instruments	63	4.3%
BDOA	50	3.4%
Property rights	42	2.9%
Definitions	22	1.5%
Consultation	19	1.3%
Administrative issues	17	1.2%
Total	1466	100%

Origin of submitters

Table 3 shows the origin of submissions where this is relevant and identifiable. Some submissions were general in nature and did not relate to a specific locality or area whereas for some other submissions, it was not possible to identify the LGA the submission related to. Moreton Bay Regional Council, Redland City Council and Gold Coast City Council accounted for the most submissions. Ipswich City Council, Logan City Council and Sunshine Coast Regional Council each accounted for less than 10 per cent of submissions.

Table 3. Number of submission per local government area

LGA	Submissions	Percentage
Moreton Bay Regional Council	32	20.3%
Redland City Council	28	17.7%
Gold Coast City Council	24	15.2%

General	23	14.6%
Ipswich City Council	13	8.2%
Brisbane City Council	13	8.2%
Logan City Council	12	7.6%
Sunshine Coast Regional Council	11	7.0%
Western SEQ	2	0.6%
Total	158	100%

Submission review process

Submissions about the draft instruments and supporting guidelines were reviewed using a five step framework. The submissions were reviewed and analysed by staff from both DERM and DIP using the same standardised approach.

The process was based on sound principles of consultation feedback review and conforms to the approach used and recommended by DIP for use with planning instruments. It also reflects the approach adopted to review submissions relating to the SEQRP and the review of comments received on the interim SPRP released for comment in November 2009.

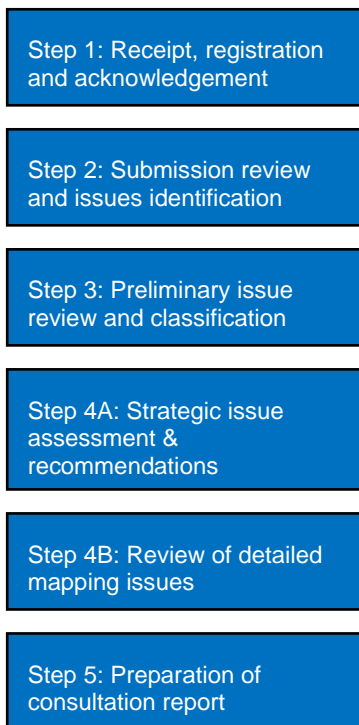
The process was aimed at ensuring all comments received were comprehensively captured and considered and that those comments could be analysed to identify strategic issues to assist in the making of the final SPP and SPRP. The process included:

- developing a comprehensive administrative process for the receipt, lodgement and classification of all submissions
- allocating staff within DIP and DERM to read, summarise and review every submission
- developing protocols and standards to ensure a consistent approach to analysis by staff from both DIP and DERM
- regular team meetings and analysis workshops with staff from both DIP and DERM to identify strategic issues and consider responses and actions
- peer review and testing of analysis methodology to ensure a rigorous and consistent approach was adopted.

An independent auditor was appointed to monitor and comment on the assessment process, provide a peer review and ensure that the analysis methodology was rigorous and consistent.

All submissions were treated as confidential, however some individual submitters may have chosen to make the content of their submissions public. All comments and issues were noted and recorded. The submission review process is set out in Figure 3.

Figure 3: Submission review process



Step 1: Receipt, registration and acknowledgement

DERM took receipt, registered and acknowledged submissions and provided a copy of all submissions to DIP.

On receipt, each submission was registered in the database and allocated a submission number. Duplicate submissions were only recognised as a single submission. Submissions on the draft instruments were received by:

- post
- email
- fax
- in person
- via Members of Parliament and Ministerial offices.

Step 2: Submission review and issues identification

After registration, submissions were reviewed and issues classified using a standardised process.

DERM staff took the lead responsibility for submission review and issues identification and provided training and ongoing support in the use of the consultation submission entry sheet to DIP project team members. The purpose of this stage of submissions analysis was to record all comments raised, not to undertake any analysis or detailed consideration of the comments. This analysis was to take into account every relevant individual comment raised in a submission. Once an initial review was conducted, the review information was entered into the central submissions database.

All submissions were treated as properly made submissions for the purposes of review and issues identified.

Submissions that included a range of issues received a number of classifications. Classification information was entered into a master spreadsheet. The following information was recorded for each issue raised:

- submission number
- instrument the issue or comment related to
- section reference of instrument (if applicable)
- specific requirements identified (if applicable) to a specific section of an instrument

- the theme of the issue or comment
- a brief statement summarising the issue raised
- a detailed comment
- any recommended solution relating to the comment if supplied by submitter
- specific local government or property information (e.g. lot plan) if provided

For each submission, several issues may have been raised and all issues were considered individually and entered into the central submissions database. Regular weekly team meetings were held between DIP and DERM officers to ensure consistency in data entry and analysis. The independent auditor also attended these meetings when required.

Submissions which raised concerns about the habitat values mapping of specific lots or areas were identified on a separate spreadsheet for the purposes of review of habitat values mapping issues by independent consultant, GHD (refer Step 4B).

Step 3: Preliminary issue review and classification

In step three, each issue raised in a submission and identified was allocated to the relevant strategic theme category. Issues were assessed against three standard criteria to identify, in a preliminary way, those issues which required further assessment. This process was treated as a preliminary issues analysis and allowed DIP and DERM officers to obtain an overview of the scope of the issues raised.

The criteria for analysis were:

- criterion one – change in policy position or approach. This criterion related to a fundamental change in the policy direction of the proposed instruments
- criterion two - change in underlying concept or methodology/workability. This criterion related to suggested amendments to provisions within the draft instruments
- criterion three - outside of the scope of the specific instruments. This criterion related to comments that are not relevant or beyond the scope of a State planning instrument.

Step three was undertaken concurrently with step two to avoid duplication.

Step 4A: Comprehensive strategic issue assessment and recommendations

The purpose of step four was to conduct an assessment of the strategic issues identified through step two and three and to prepare recommendations to inform the preparation of the final SPP and SPRP.

Step 4.1: a pilot study was completed to test the methodology to determine whether it would be an effective process to identify major themes and conduct assessment and formulate recommendations. The pilot study concluded that the methodology was sound and could support the identification of strategic issues for assessment and recommendation.

Step 4.2: a workshop was held with staff from DIP and DERM to conduct a broad collective review of submissions, to assess priority areas and to commence the formulation of responses to themes and issues.

Step 4.3: staff from DIP grouped similar issues under broad themes to determine the strategic themes (See Appendix A for a list and description of themes). The key issues under each of these themes were summarised, an assessment conducted and recommendations provided for consideration in the preparation of the final SPP and SPRP (See Appendix B).

Step 4.4: a workshop of DIP and DERM officers was held to conduct an analysis of strategic themes and to formulate recommendations to inform the completion of the SPP and SPRP. The issues summary for each strategic issue was considered as well as advantages and disadvantages to the policy development. Recommendations relating to actions and changes to the SPP and SPRP were formulated based on the assessment.

Step 4B: Review of detailed mapping issues

Comments regarding the habitat mapping for individual properties were identified, with submissions regarding the Koala Habitat Values (KHV) mapping referred to independent consultants, GHD, to consider against the articulated methodology under the South East Queensland Koala Habitat Assessment and Mapping Project. GHD analysed submissions regarding habitat valuation and provided a recommended response for the statutory habitat values

map being either 'no change' or 'change'.

Comments relating to the Koala Planning Area (KPA) mapping were grouped by issue for consideration in the context of broader amendments to policy direction and requirements.

Step 5: Preparation of the consultation report

DERM and DIP collaborated on the preparation of this report.

This report was endorsed by Minister for Climate Change and Sustainability and the planning Minister in the making of the SPP and SPRP.

All submitters will be notified of the release of the instruments and the availability of the consultation report and final instruments on the DERM and DIP websites.

Appendix A: Themes used for strategic issues analysis

Administrative issues

- relates to costs and burden perceived for administration of SPRP as well as for applicants and industry complying.

BDOA

- all comments relating to BDOA provisions.

Conflict with instruments

- for perceived conflicts with a local planning instrument, State legislation or other State instrument.

Conflict with SEQRP

- relates to perceived conflict with SEQRP.

Consultation

- comments about the consultation process that has been undertaken.

Definitions

- all comments relating to definitions.

Exemptions

- all comments about expansion, interpretation or reduction of exemptions.

Implementation

- comments about implementation of instruments – including the need for LG training.

Instrument provisions/changes

- comments on specific sections of an instrument and/or a suggested change to specific section of instrument.

Mapping

- all comments relating to map accuracy, amendments or property specific concerns unless it is a fundamental 'policy approach' comment.

Offsets

- all comments relating to offset policy unless it is a fundamental 'policy approach' comment.

Policy approach

- relates to either support for policy approach or a recommendation for change to fundamental policy approach.

Property rights

- relates to perceived loss of property rights, compensation and acquisition.

Species/conservation

- comments about koalas or conservation generally – including spotter training requirements, history and Koala Plan, monitoring programs and translocation.

Appendix B: Strategic issues assessment and recommendations

The key issues under each of the themes were summarised, an assessment conducted and recommendations provided for consideration in the preparation of the final SPP and SPRP.

Theme 1 – Administrative issues

Key issues

- The SPRP will increase the time, process and cost for development approvals.
- The Development Assessment Code requirements are complex, conservative and onerous.
- It is unclear who will have responsibility for assessing and monitoring particular koala populations.
- It is unclear how it is possible to ensure council planning schemes and instruments comply with the objectives of the SPP.
- The instruments impose an additional burden on local government in terms of enforcement, regulation and assessment.
- The instruments will impose additional training requirements for local government staff.
- The instruments will impose costs associated with court processes and appeals, since there are multiple agencies and councils implementing the instruments, instead of one agency responsible for implementation.
- Without one assessment authority, there will be inconsistent application and interpretation of the policy.
- The policies do not consider the ability of developers to construct sustainable developments which enhance and rehabilitate koala habitat and provide corridors for movement between habitats.
- Provisions within the instruments require all applications for preliminary approvals to be assessed against the SPP and SPRP regardless of the individual circumstances of the applications (e.g. site conditions or impact on koalas).
- Prohibition of urban development in KPA 1 offers no flexibility to account for mapping errors at the property scale or the actual on-ground value of vegetation.
- The State Government should retain assessment responsibility for the SPRP until local governments are trained in its implementation.
- Some local governments offered the opinion that they have better local knowledge and are best placed to manage koala habitat and that the State should set parameters that local governments must meet, in order to drive proactive action on behalf of the local governments.

Assessment

- Applications assessed against the SPRP will not necessarily result in increased timeframes for assessment as the instruments and supporting IDAS forms provide the necessary guidance for applicants to submit clear, well-considered applications and for the relevant assessment manager to assess the applications.
- It is acknowledged that the application of the draft SPRP across large areas of the region caused some uncertainty and concerns about the potential burden upon local governments implementing the instruments. In addition to this point, the responsibility being placed on local governments, as assessment managers, to implement the SPRP rather than the State having a referral agency jurisdiction to do so is noted. Nevertheless, this approach is consistent with the assessment managers responsibilities provided for under SPA.
- Comprehensive draft codes, which formed part of the draft SPRP, were designed to assist applicants and local government identify impacts of development on koalas, however it is acknowledged that clearer and more concise codes are needed.
- It is acknowledged that there is a need for local government reporting and monitoring of koala conservation outcomes.
- It is acknowledged that further clarity is required to confirm when a planning scheme complies with the SPP to assist State interest reviews.

- State legislation provides for circumstances where compensation is not payable where loss arises from a State planning instrument.
- There are local circumstances which need to be taken into account when development applications are prepared and lodged. It is considered local government is best placed to assess the impacts of an application on koala habitat through SPA due to their local knowledge.
- Although the assessment provisions may appear onerous, the policy is intended to encourage innovative development applications which meet the aims of koala conservation.
- The impact of the koala instruments on preliminary approvals was clarified through fact sheets on the instruments which were released during the consultation process.

Recommendations

- A monitoring and reporting process is to be established for local government under the KCP to determine their implementation of the SPP and other koala protection measures adopted.
- A koala conservation strategy should also be provided when making or amending local planning instruments to assist DERM in determining whether local governments have appropriately reflected the SPP.
- The approach to the SPRP should be amended to cover those areas where koala populations are at imminent risk from development activities, rather than applying across the current extent of the seven local government areas.
- The SPRP should focus its provisions on areas where the current evidence is unequivocal that koala populations are in immediate danger and immediate action must be taken through the development assessment system. Existing areas of State interest within the SEQKPA are to be maintained (i.e. those areas under the KCP and interim SPRP).
- Amendment of assessment codes should be undertaken to simplify development assessment, ensuring the outcomes sought are clear and concise and allowing for merit based assessment consideration.
- Guidelines on how to implement the koala instruments and advice on how to implement the instruments are required to be provided to local government prior to their commencement. Additional training of local government assessment managers should also be undertaken.
- Prepare a supporting guideline detailing how local government can comply with the policies under the SPP.

Theme 2 – Biodiversity Offset Areas (BDOA)

Key Issues

- The BDOA concept is inconsistent with the intent of the SEQRP, which is to encourage urban development within the urban footprint, by potentially allowing development in areas where urban development was not otherwise intended, such as the Regional Landscape and Rural Production Area.
- The BDOA concept is inconsistent with local government's existing land use and infrastructure planning.
- The BDOA policy will be difficult to implement, as developers will have difficulty identifying 'receive sites' that meet the criteria in the BDOA policy.
- The BDOA concept is confusing and it is not appropriate to introduce a complex and untested process.

Assessment

- The SEQRP Regulatory Provisions 1.5(1)(b) introduced the BDOA concept, modifying the effect of these provisions should a benefit to biodiversity values be demonstrated.
- The BDOA process is designed to be used in specific circumstances and not as a replacement to traditional environmental offset principles.
- The criteria for send and receive sites requires amendment to simplify and improve the BDOA concept.
- It was never intended that a BDOA declaration would override local planning instruments and other State interest issues.

Recommendations

- The BDOA process needs to be clarified to establish the role of the planning Minister in declaring a BDOA.
- The BDOA process should make it clear the areas where a BDOA could be made.
- The BDOA process should clarify the roles of the planning Minister, role of local government and should also clarify how the area can be assessed as appropriate for development.
- Prepare a statutory guideline under the SPA, detailing the process for making a BDOA, and the types of matters that should be considered by the planning Minister in the declaration of a BDOA.

Theme 3 – Conflict with instruments

Key issues

- The SPRP is inconsistent with the SPA as it does not adequately recognise existing development approvals.
- The SPRP jeopardises the delivery of the Queensland Housing Affordability Strategy (QHAS) objectives.
- The SPRP does not reflect local area planning or existing greenfield planning and will affect the ability to meet SEQ growth targets.
- The SPRP may affect development yields in areas zoned for urban purposes.
- The inconsistency between the *Vegetation Management Act 1999* (VMA), other environmental planning instruments and koala habitat mapping must be reconciled.

Assessment

- The complexity of the draft instruments may have led to misinterpretation of the koala instrument provisions in relation to existing development approvals or development applications already lodged. There is a need to provide clarity on this issue with section 1.4 of the SPRP and supporting material. SPA already protects existing use rights, which can not be impacted by the making of a new planning instrument.
- The draft instruments specifically recognise commitments to deliver land for housing and employment at regionally significant greenfield sites as identified in the SEQRP. The instruments do not require any additional habitat retention or land use allocation outcomes in areas with advanced levels of planning endorsed by the State Government. However, this approach required the protection of koalas and the need to provide for their movement during and after building and construction.
- Koala habitat mapping in the SPRP and the SPP is not intended to duplicate or reflect every detail of the mapping in all other environmental planning instruments. Rather, the mapping was prepared for a specific purpose (i.e. the SPP and SPRP), while also taking into account the VMA requirements and other koala conservation values.
- There is the need to recognise prior planning for the 17 priority committed and priority bring forward sites under the QHAS where land use planning is either well advanced or has been completed, and that the SPRP does not impose further habitat retention.

Recommendations

- Clarity is to be provided on how the SPRP operates where existing approvals are in place.
- The application of the koala instruments to QHAS sites, where existing planning instruments have determined land use and development outcomes, should be clarified in the SPRP. These areas should be individually defined and mapped in the SPRP as Identified Koala Broad-hectare Areas.

Theme 4 – Conflict with SEQ Regional Plan

Key issues

- The koala instruments conflict with existing planning commitments and approvals within the urban footprint and the RLRPA.
- Future residential planning for Identified Growth Areas (IGAs) will be compromised.
- The SPP and SPRP will impact on development within existing greenfield areas.

- The BDOA provisions within the SPRP are not consistent with various provisions in the SEQRP.
- The koala instruments may lead to reduced density of development in the urban footprint and a fragmented urban growth pattern.
- The koala instruments may adversely affect the achievement of housing targets set out in the SEQRP.
- The strategy for koala protection established in the koala instruments should focus on koala conservation measures outside the urban footprint.
- Areas identified within the SEQRP as contributing to industrial and employment growth may be impacted by the SPP and SPRP.
- Habitat retention requirements set out in the SPRP will reduce development on land within the urban footprint which is earmarked for future development, and will reduce the ability to meet regional population targets.

Assessment

- The SPP and SPRP are tools aimed at managing potential conflict between development and koala conservation outcomes and are intended to work in collaboration with the SEQRP.
- IGAs are indicative only and have no cadastral basis. The SEQRP is prescriptive on the criteria for bringing these areas forward before 2031. The status of each IGA, in terms of the need for detailed planning of these sites to accommodate future population growth, would be considered as part of future SEQRP reviews.
- Future planning of greenfield land, development areas and IGAs will need to identify and manage all environmental values prior to development taking place as part of the regular planning process. The presence of mapped koala habitat values as a constraint should not preclude future development in these areas.
- There is the need to recognise prior planning for the 17 priority committed and priority bring forward sites under the QHAS where land use planning is either well advanced or has been completed, and that the SPRP does not impose further habitat retention.
- The strategy throughout the koala instruments is based upon scientific data which specifies that koala conservation requires habitat retention and corridor linkages. Various sites within the koala instruments which have been identified for their value for habitat retention and corridor linkages encompass both urban and rural bushland.
- The SEQRP provides for the need to protect koalas and achieve a net gain in habitat through Policy 2.2 and identifies the need for an SPP and development codes as tools to deliver that aim.
- The SEQRP notes that development in the urban footprint must balance the delivery of growth with the need to protect and conserve significant biodiversity values.
- These instruments were developed in response to a drastic decline in key koala populations in SEQ and significant community expectation for State Government action to stop the decline. At the same time, growth pressures within SEQ are continuing, with availability and affordability of housing supply becoming an increasing issue for the community.

Recommendations

- The SPP should be drafted to provide clear guidance on the matters which must be considered in the delivery of Development Areas under the SEQRP, including IGAs.
- The preferred approach should be designed to deliver a more flexible approach to koala conservation and minimises instances where the SPRP would negatively impact on the SEQRP's land supply objectives.
- The preferred approach should be designed so that the SPRP will recognise land use planning done under a structure plan or master plan. This is to be provided for in Division 3 of the SPRP. It would not seek to impose additional habitat protection or offset measures once development commences.
- An approach to clarifying the role of an SPP would be for the SPP to require local governments to ensure their planning scheme contributes a net increase in koala habitat. It would require local government to identify important koala habitat areas and movement corridors and protect them through their planning schemes; ensure that land uses allocated through their planning scheme are compatible with koala conservation; and implement offset arrangements for developments which involve the clearing of koala habitat.

Theme 5 – Consultation

Key issues

- There was a lack of consultation and a lack of information distributed on the policy throughout its development. Throughout policy development, industry expertise was not utilised.
- The process has not been transparent and background information and important supporting information was not provided to stakeholders throughout the policy development process.
- In the consultation stages, guidelines, fact sheets and maps were difficult to read and some aspects were unclear. Documents for consultation should be easy to read and supporting materials should aid understanding.
- The timeframes for submissions was too short and insufficient notice was given that the documents were being released. The documents should have been more broadly available and landowners should have been informed about the status of their land.
- The community needs to be educated about the variety of koala surveys conducted and the contribution community members can make to support the SPP and SPRP.

Assessment

- There was considerable preliminary engagement and consultation prior to the formal release of the koala instruments, including exposure drafts of the koala instruments. Consultation on koala conservation measures has extended from 2008 onwards from the making of other koala conservation provisions. There have been ongoing discussions with local government and other groups throughout the development of the final instruments.
- Exposure drafts of the SPP and SPRP were released prior to finalising the draft koala instruments, for targeted consultation on workability with local governments. Over 80 submissions were received about the exposure drafts. These submissions were considered in the making of the instruments. An interim SPRP was also released for formal consultation in November 2009, with over 60 submissions received on this instrument.
- Supporting materials, such as 'frequently asked questions', were provided on DERM's website during the consultation period to assist in understanding the koala instruments and to assist in understanding the koala surveys and mapping project.
- The draft instruments were made available for 41 business days, exceeding the minimum statutory requirements for the notification of the SPP, 40 business days, and the SPRP 30 business days. A Notice of Intent consultation period was also held for the SPP for a period of 40 business days. All properly made submissions received during and after this public notification period were accepted and considered as part of the submission review process. In addition to these statutory timeframes, exposure drafts of the SPP and SPRP were released for approximately six weeks prior to the statutory consultation period.

Recommendation

- Communication with stakeholders and the broader community when the final SPP and SPRP are released should be provided to enable clearer interpretation of the SPP and SPRP.
- Support for assessment managers should be provided to ensure the koala instruments can be implemented as intended.

Theme 6 – Definitions

Key issues

- The following terms need to be clarified:
 - koala habitat (inconsistency between the SPP and SPRP)
 - mature habitat trees (should also cover non-mature/juvenile)
 - minimising impacts (suggestion that 'avoiding' would be a better term).
- There is a need to add definitions for clearing, land use entitlement and the optimum level of protection.
- There is insufficient information and clarity about 'safeguarding koalas from dangerous equipment and works' and there is insufficient information about the koala safety fencing measures.

- The definition of 'habitat tree' should be expanded to include Casuarina and expand the SPP and SPRP to increase the number of examples of shelter species.
- The definition of 'koala habitat' is too closely linked to mapping, which is not completely accurate.
- The definition of native vegetation and the outcomes of the assessment provisions to retain native vegetation implies that all native vegetation must be protected regardless of whether it has koalas or koala habitat trees.
- The use of the term 'development' rather than 'development being the clearing of koala habitat' means even minor works on rural properties would require assessment regardless of the existence of koala habitat.

Assessment

It is acknowledged there are inconsistencies between some terms and a lack of definition for others.

- The SPRP intends to regulate assessable development, not change the level of assessment.
- Development in various forms, not just clearing, has impacts and must be considered.

Recommendation

- Definitions should be amended to ensure greater clarity in terms of the outcomes sought and its relationship to the assessment criteria within the SPRP, including, for example, matters relating to habitat types and values.
- Greater clarity in regards to complying with the SPRP should be included within Division 1 and supporting material.

Theme 7 - Exemptions

Key issues

- The SPRP should not apply to development being undertaken in accordance with a preliminary approval.
- The list of exemptions should be extended to include code assessable development in accordance with a permit of preliminary approval.
- The SPRP should not apply to applications for reconfiguring a lot or a material change of use.
- The SPRP should only apply to material change of use, reconfiguring a lot and operational works for the clearing of vegetation - not to all aspects of assessable development.
- The exemptions provided in Section 1.4 of the draft koala instruments are too broad.
- The list of exemptions should be extended to include operational works applications to enact an existing permit of preliminary approval.
- The SPRP should adopt exemptions as implemented by the 2009 SPRP.
- Extractive industry activities should not be exempt.
- Public infrastructure should not be exempt.
- Development in the urban footprint should be exempt from the SPRP.
- The exemption relating to rezoning approvals is too broad and will result in minimal outcomes.

Assessment

- It is acknowledged that it is not suitable for provisions of the SPRP to further regulate development that has existing use rights protected under the SPA.
- The draft SPRP did not seek to further regulate or alter an approval (i.e. change the layout or configuration of approved development), but to provide koala conservation outcomes during construction, such as by requiring sequential clearing. The koala instruments also sought to provide koala conservation outcomes post-development, such as the incorporation of koala safe fencing, to reduce the impact of development on koalas.
- Extractive industries are subject to the provisions of the SPRP where they meet the relevant trigger thresholds for assessment.
- State Government community infrastructure is exempt, due to the application of another process administered by DERM, which seeks the same outcomes as the SPRP.

- The SPP provisions will be incorporated into local planning instruments once local government demonstrates that those instruments sufficiently address the SPP's requirements.
- Urban development is one of the greatest threats to the survival of koalas in SEQ and the koala instruments will contribute towards the SEQRP's direction for minimising conflicts between development and koala conservation within the urban footprint.
- The exemption relating to rezoning approvals is intended to only apply to approvals granted under the repealed Local Government Act 1936.

Recommendations

- The circumstances where exemptions apply within the koala instruments will be amended to ensure greater clarity,(i.e. section 1.4). These are to be supported by additional guidelines as well.
- The application of the SPRP to areas which have complied with the SPP requirements will be clarified, within Division 3 of the SPRP for Identified Koala Broadhectare Areas. The prohibition of urban development is to 'fall away' once the planning scheme has appropriately reflected the SPP for that area.

Theme 8 – Implementation

Key issues

- There should be an opportunity for landowners to demonstrate that their land does not have koala values and therefore could be excluded from assessment or treated as a KPA3 designation.
- There is insufficient information on compliance and enforcement against the provisions and how the implementation of the policy will be monitored.
- The policy needs to consider ongoing monitoring of koala populations to assess effectiveness of the instruments. The instruments need to be flexible enough to adapt to changes in koala management practices and the results of scientific investigations.
- Local governments should be required to undertake koala conservation measures and identify and protect koala habitat areas in planning schemes and other planning instruments.

Assessment

- The intention of the SPRP is to allow property-scale assessment of koala habitat values through ground truthing. These provisions were provided in the draft instruments, however it is acknowledged this was unclear in the draft instruments.
- Compliance requirements are provided for in the SPA.
- There is a need for local government reporting and monitoring of koala conservation outcomes. There is also a role for a number of stakeholders to implement non-planning responses.
- It is intended that the SPP directs local government to prepare their planning schemes to incorporate appropriate koala conservation measures.
- A more flexible planning framework is preferred which makes local government primarily responsible for ensuring that koalas are protected through their planning schemes.
- The majority of local governments are now undertaking reviews of their planning schemes in accordance with the SPA, providing the opportunity for the SPP to be appropriately reflected.

Recommendation

- A monitoring and reporting process should be established for local government under the KCP, and linked to the SPP.
- A more flexible and outcomes-focused SPP should be developed that establishes koala conservation outcomes that local governments must address through the development of local planning schemes.
- The SPRP should include provisions relating to property-scale assessments and ground truthing, and included within a new Division 9 of the SPRP.

Theme 9 – Instrument Provision Changes

Key issues

- The Development Assessment Code contains weak statements and ambiguous desired outcomes, particularly with regard to protection of habitat trees in urban areas.
- A number of probable solutions within the SPRP are not measurable.
- Clarity is required regarding the final intent of land that is left undeveloped as a result of the SPRP requirement to retain 30 per cent of site.
- Concern regarding the probable solution to retain 30 per cent of the site effectively reducing the potential development yield of urban land.
- Concern regarding the probable solution to retain 30 per cent of the site effectively allowing for the loss of the koala habitat on the site.
- The application of the measures prescribed by the KSFM Guideline are not considered a practical option within urban environments.
- Concern that the draft SPP appears to have no relationship to the Queensland Planning Provisions in terms of standard definitions, land use allocations (zonings), local area planning, planning partnerships/other, or other urban functions such as schools, aerodromes and other social infrastructure.
- Codes are too prescriptive and do not allow for performance based assessment of the merits of individual applications.
- Many of the specific outcomes throughout the codes are general in nature and subjective in their application. This creates uncertainty for both land owners and local government when attempting to implement the codes.
- Development should be prohibited in all protected koala bushland habitat, regardless of its size or the number of mature koala habitat trees lost.
- Appropriate measures must be in place to protect koalas from harm during and after vegetation clearing. Sequential clearing and use of koala spotters alone is insufficient.
- Infrastructure charging for fauna infrastructure and greenspace should form part of the requirements set within priority infrastructure plans and other infrastructure charging mechanisms.
- No guidance is given on the design and location of koala habitat size and connections to avoid fragmentation.
- The SPRP Schedule 3 criteria is too generic and will be difficult to apply across a range of development scenarios.

Assessment

- The complexity, the level of uncertainty and difficulties in interpretation are acknowledged and amendments are required.
- The draft SPRP led to some uncertainty on how the instruments were intended to apply and there have been some interpretation issues particularly:
 - requirements for habitat linkage outcomes and the probable solution relating to 30 per cent habitat retention
 - the practicality of achieving koala safety and fencing
 - prior approvals and exemptions
 - how the instruments affect subsequent applications
 - how the instruments affect dog control.
- A range of issues and concerns were raised about the SPP particularly:
 - the requirement for 30 per cent of land free from development, management, allocation etc
 - the requirement for codes to be incorporated into planning schemes without local changes
 - concerns that the SPP is not related to the Queensland Planning Provisions in terms of definitions and structure.
- An approach to clarifying the role of an SPP would be for the SPP to require local governments to ensure their

planning scheme contributes a net increase in koala habitat. It would require local government to identify important koala habitat areas and movement corridors and protect them through their planning schemes; ensure that land uses allocated through their planning scheme are compatible with koala conservation; and implement offset arrangements for developments which involve the clearing of koala habitat.

Recommendations

- The SPRP provisions should be simplified and clarified to focus on the development outcomes being sought, specifically:
 - replacing the habitat retention requirements (30%) with the need to avoid/minimise and offset any unavoidable losses;
 - koala safe movement opportunities required where development will impact on connectivity values of the site; and
 - dog controls to be predominately regulated through local laws under the Local Government Act and covenants adopted where considered appropriate by councils.
- The SPP should focus on providing direction on how koala conservation outcomes can be achieved through the preparation of planning instruments.
- KSFM requirements should be amended to focus on safety and movement outcomes for koalas, which can be achieved through IDAS.
- Better communication with industry groups and the general community should be undertaken with respect to what the provisions within the koala provisions are intended to deliver.
- Better integration with the QPP provisions are required to be implemented in the SPP guideline to ensure consistency.

Theme 10 – Mapping

Key issues

- The accuracy of the mapping is questionable and the accuracy has not been sufficiently verified.
- GHD acknowledge limitations of mapping and its general unsuitability to be relied upon as a regulatory tool.
- Habitat values mapping should be reviewed prior to the introduction of the koala instruments to incorporate local government mapping information. If timeframes do not permit, a precautionary approach should be adopted.
- The current mapping should not be relied upon to such an extent in an instrument that prohibits development and impacts land values.
- There is a lack of transparency in how KPA designations and their boundaries were determined.
- Mapping contradictions occur where land with urban intent has been designated as a KPA. This creates uncertainty regarding development entitlements or conservation intent.
- There is no mechanism to enable amendment or overriding of mapping based on field investigations performed by qualified ecologists.
- More detailed mapping investigations are required to ensure accuracy of mapping so that koala habitat values are protected and unconstrained land is reflected.
- The designation of KPA1 in IGAs undermines their potential for future urban development.
- The mapping omits the southern and western local government areas. This doesn't provide an accurate representation of koala habitat across the region.
- The mapping is inconsistent with existing state and local government environmental mapping.
- North Stradbroke Island should be mapped as KPA1.
- KPA1 designation of all land zoned for recreation will impede local government's delivery of sport and recreational facilities.

Assessment

- The 2009 Habitat Values project upon which the draft statutory mapping was based, involved a comprehensive

process including a knowledge management group of experts which oversaw the methodology. Over 30,000 sighting records were incorporated and surveys were undertaken to validate the findings. The process for developing the draft statutory mapping also involved masking areas where additional information found koalas were not generally present (e.g. Brisbane CBD). The draft instruments incorporated a ground truthing process to allow for reconsideration of habitat values at development assessment level.

- The KPA mapping was based on available local government zoning data, not all of which is up-to-date. The consultation process has enabled an enhanced understanding of local government land use zoning.
- The 2009 Habitat Values Mapping project integrated existing State data and provides a broad-scale assessment of existing or potential value of areas. It represented a new methodology aimed at identifying current values and future potential habitat areas. The mapping approach was deliberately different to other State and local government environmental mapping, due to the limitations of some existing environmental mapping when used for koala conservation purposes.
- The KPA mapping considered conservation zones as a reflection of local government conservation intent.
- Although there are concerns about the role that KPA and habitat values mapping has in a regulatory regime, mapping is just one input into the policy development process and a detailed policy development process was undertaken to develop the regulatory tools.
- The methodology used in creating the KPAs was outlined in Annexure 1 of the draft SPP Guideline
- It is acknowledged that previous drafts of the koala instruments led to some uncertainty for areas with prior planning or development commitment.
- The draft SPRP allowed for further field investigation to be performed ('ground truthing' described in draft SPRP Guideline) however it is acknowledged this opportunity to refine the mapping was not clear.
- It is acknowledged that further mapping investigation may be required in some areas to incorporate information at a localised scale which improves the accuracy of the habitat values.
- Concerns about the impact of SPRP mapping on the future delivery of growth in IGAs is acknowledged, however the draft SPP outlined how these areas would be planned through a coordinated process.
- The focus for the instruments is to be on areas where koalas are at most at risk from urban development impacts.
- North Stradbroke Island koala populations appear relatively stable and are not subject to the same pressures as mainland populations.
- It is acknowledged that previous drafts of the koala instruments created some uncertainty regarding the development constraints on land that is required for sporting or recreational activities.

Recommendations

- Further information should be provided in the SPRP regarding ground truthing and where and in what circumstances this is appropriate. This is to be provided in a new Division 9 in the SPRP.
- The SPP should be amended to encourage local government to undertake more detailed koala mapping investigations and use additional information to identify and reflect local habitat values in planning schemes. The SPP guidelines is to provide this guidance where required.
- The SPP should provide guidance on how koala conservation values will need to be considered through the planning process for IGAs.
- The SPRP mapping should be amended to focus on areas with significant pressures, ensuring no loss of protection from existing instruments. Local government planning provisions will continue to apply to areas not included in the SPRP mapping and future planning scheme amendment should be required to reflect the SPP outcomes.
- The SPP mapping should continue to articulate State interests in koala conservation in the region, requiring local governments to ensure planning schemes and structure plans for declared master planned areas reflect koala conservation and include measures which mitigate urban development conflicts.
- The delivery and development of land sport and recreational uses should not be precluded by the SPP or SPRP, with necessary amendments made to ensure this is the case.

Theme 11 – Offsets

Key Issues

- The loss of mature habitat is inconsistent with the overarching policy intent.
- Replacing the loss of mature trees with saplings is not equivalent habitat.
- The policy does not contain a mechanism to offset habitat loss as a result of urban development.
- The offset policy is not linked to a strategic rehabilitation program.
- The requirement to allocate all financial contributions in lieu of vegetation offset to a single offset provider opposes fair competition in the market.
- The policy offset is inconsistent with the Queensland Governments Environmental Offsets Policy (QGEOP).

Assessment

- The draft offset policy is aimed at a net gain for bushland habitat across the region and suggested a high net benefit ratio (5:1) for tree loss/offset in consideration of the time lag involved in establishing mature habitat.
- It is acknowledged that there has been a lost opportunity with the draft SPRP in terms of delivering a net gain in habitat arising from urban development activities, as the draft SPRP focussed on habitat retention rather than a net gain.
- The offset policy provides one option for use of an offset provider however there are other options that can be used instead.
- The proposed offset framework is consistent with the principles of the QGEOP.

Recommendations

- The SPRP should be amended to recognise the role of offsets in delivering environmental gain and the delivery of development.
- The SPRP should be amended to enable a broader offset regime to be incorporated, including expanding the offset requirements to include all development types in koala habitat.
- The final SPP should provide a strategic framework for the collection and implementation of offsets, including recognising role of local government in managing offsets within their local area.

Theme 12 – Policy Approach

Key Issues

- The policy should capture all SEQ local governments.
- The policy approach fails to deliver additional protection measures to koala habitat areas.
- The policy approach does not allow for existing approvals to be reviewed.
- North Stradbroke Island should be a Priority Koala Habitat Management Area.
- The responsibility of implementing and managing the policy is being transferred to local government.
- Local government should be able to nominate a priority koala management area where koala habitat is significant and requires additional protection measures.
- The policy should allow for finer scale habitat assessment and mapping to be used to refine the application of instruments.
- Current policy approach attempts to regulate all native vegetation in KPA1; this should be revised to regulate only koala habitat.
- The policy approach is based on land use types rather than focussing on koala habitat values.
- There is no clarification of which SPP will prevail in instances where policy conflict occurs with another SPP.
- Extractive industry is exempt from the SPRP.

- State community infrastructure is exempt from the SPRP.
- The policy should retain or minimise clearing of vegetation in KPA3.
- The policy approach will undermine the development industry's capacity to deliver sufficient housing to meet population targets.
- The instruments have been drafted without considering the intent and objectives of established State and local government policy.
- The policy could create confusion or conflict regarding the planning and use of public open space and recreation land.
- The policy should support the designation of koala habitat both future and unprotected as regional open space. This helps the State Government meet Q2 obligations.
- Infrastructure charging for fauna infrastructure and greenspace should form part of the requirements set within priority infrastructure plans and other infrastructure charging mechanisms.
- The description of 'viable populations of koalas' is inappropriate as no adequate study has been done to assess whether there are long-term viable populations in SEQ.

Assessment

- While the policy does not apply to all councils in the region, other councils can introduce measures for koala conservation and biodiversity measures if they deem it necessary.
- The SPP and SPRP seek to balance the needs to effectively manage growth in the region with the recognised need for koala conservation and habitat protection.
- It is not lawful under the SPP to require existing valid approvals be retrospectively reassessed against the SPRP.
- Section 2.2. of the SEQRP provides that there is a need to protect koalas and achieve a net gain in habitat.
- There is no evidence that koala populations on North Stradbroke Island are at significant risk from urban development activities and that they require additional protection through these instruments.
- Local government has the best knowledge and expertise to balance conflicting land use outcomes at a local level and this function most appropriately sits with this level of government.
- The State will provide implementation support for the koala instruments to local government.
- Local government may seek third party advice in assessing applications through the IDAS under the SPA.
- State Interest checks are required for the endorsement of statutory planning instruments.
- The draft SPRP provided for ground truthing of mapping.
- It is acknowledged that the SPP and SPRP need to more clearly address those areas that will deliver residential growth for the region.
- It is acknowledged that the SPP and SPRP need to clearly address those areas which are required to achieve regional koala conservation outcomes.
- It is not the intent of the policy to restrict delivery of community infrastructure including sport and recreational facilities.
- The Standard Infrastructure Charges Schedule allows local government to collect contributions for fauna crossings as part of road infrastructure in their priority infrastructure plans.
- Funding for the acquisition of environmental land is generally collected through local government's environmental levy or rates.
- The overall policy approach has been directed by recommendations of an expert Koala Taskforce panel.
- The concerns with using the KPA designations based on land use types are acknowledged. The concerns with trying to regulate all native vegetation in KPA1 are also acknowledged.

Recommendations

- Recognition of prior residential and economic planning (such as growth targets and housing affordability objectives) should be more clearly reflected in the koala instruments.

- The SPRP should be adjusted to focus on priority areas and shift emphasis from a broad to targeted approach to conserve areas of highest value and at most risk and to preserve areas with existing State protections.
- The SPP should direct local government planning schemes to incorporate appropriate measures to contribute to a net gain in habitat, whilst addressing the need to balance koala conservation with urban development.
- The instruments should adequately reflect core, priority areas through tough controls where there are significant values.
- The SPP should be amended to allow for finer scale mapping based on additional information.
- The koala instruments should be amended to ensure clarity regarding how open space areas can assist with the achievement of koala habitat expansion and protection.
- The SPP will clarify how it will be applied where it conflicts with another existing SPP.
- The SPRP should be focussed on managing the impacts of development on the most significant koala habitat values and no longer categories the habitat values into KPAs based on land use zones under planning schemes.
- The SPRP should continue to capture development where it adversely impacts on native vegetation, however, the habitat retention requirements and the offsetting provisions should only relate to where the development would result in the clearing of koala habitat trees as opposed to all native vegetation.

Theme 13 – Property Rights

Key issues

- KPA designations require that local government rezone land with koala habitat values as conservation or open space, effectively removing previous land use and development entitlements.
- KPA designations eliminate the development potential of vacant land without providing any compensation for the loss of value.
- KPA designations eliminate the opportunity to expand existing land uses.
- There is concern that the instruments have not been prepared to balance both environmental and economic outcomes. The government is putting the interests of koala lobbyists ahead of landholders.
- There is no right of appeal or avenue to seek compensation once these instruments are enacted.
- Land identified as suitable for rehabilitation will be resumed or 'forced' to revegetate for koala conservation.

Assessment

- The SPP intent was to provide direction to local government on koala conservation considerations in land use designation in planning schemes. It is acknowledged that additional flexibility in the provisions of the SPP would allow local governments to determine a suitable strategy to balance koala conservation and urban growth objectives.
- State legislation provides for circumstances where compensation is not payable where loss arises from a State planning instrument.
- The policy approach is to balance the management of urban growth and koala conservation as envisaged by the SEQRP.
- The consultation process on the draft instruments provided the opportunity for property owner input and for concerns to be considered in the development of the final instruments.
- The identification of areas as suitable for rehabilitation is intended to inform both planning and non-planning decisions.
- The intent of the instruments does not require private landholders to undertake revegetation on their property, nor does it adversely impact on its ongoing management of public or private land not subject to a development application.

Recommendations

- The SPP should be revised to provide local government with outcomes to be achieved for koala conservation, with flexibility to determine a suitable strategy for land use planning responses.

- Further information should be provided through communication and educational material to inform landowners about the effect of the instruments under SPA.
- Refocus the SPRP on mitigating the impacts of development on the most 'at risk' populations.

Theme 14 - Species/conservation

Key issues

- Gains in the urban footprint will result in patches of habitat rather than well planned habitat corridors.
- Only koala food trees should be included in species to be protected.
- Moratorium of clearing of identified koala habitat which contains regrowth, 'of concern' and 'not of concern' vegetation under the VMA is necessary.
- All existing habitat should be retained in urban areas.
- There are few incentives for landholders to rehabilitate koala habitat.
- Local government environment levy needs to target habitat.
- New infrastructure such as powerlines should be underground.
- Previous planning provisions have not addressed decline in conservation status and population.
- Koalas should be declared as critically endangered within SEQ.
- Koala Taskforce recommendations should be included within the SPRP.
- It was suggested that koalas were not often sighted in particular areas and that regulation on certain lands is unnecessary as the land was not perceived to be important koala habitat.
- Fringe areas around quarries known to be koala habitat.
- Areas in Scenic Rim local government area have identified koala populations.

Assessment

- The SPP and SPRP are important elements of the State Government's broader response to koala conservation.
- The SPP and SPRP have a role in managing land use conflicts, however the government recognises that koala conservation entails a broader scope of approaches and responses beyond planning and development system.
- The Premier's Koala Taskforce recommendations are being implemented through a range of programs, including the SPP and SPRP. The government's koala response strategy also includes a \$15 million strategic acquisition and rehabilitation fund, koala monitoring program, disease research, and koala nature refuge and incentive program for private land.
- The State Government believes local government also has an important role to play in koala conservation.
- The Federal Government is currently considering the classification of koalas under the *Environmental Protection and Biodiversity Protection Act 2003*, both across Queensland and in SEQ specifically. The State Government is also considering the classification of koalas as an endangered species and is being informed by ongoing monitoring and population information, as well as the Federal Government review.
- The focus for these instruments is on mitigating the impacts of development on the most 'at risk' populations and by requiring koala conservation measures be incorporated in planning schemes. Koala populations in areas with lower urban development pressures, such as koala populations in the Scenic Rim, are not considered to be under significant threat. Koala habitat in all areas within the SEQKPA is recognised, including fringe and urbanised areas.

Recommendations

- A local government monitoring and reporting framework should be developed and implemented.
- The State Government should actively engage with local government and private landholders to improve coordination in the implementation of the instruments, as well as improving the implementation of other Koala Response Strategy programs.



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1 December 2009

Hon Stirling Hinchliffe MP
Minister for Infrastructure and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Minister

Proposed South East Queensland Koala Conservation State Planning Regulatory Provisions and the Draft Koala Conservation State Planning Policy

The Property Council of Australia has major concerns with both the Proposed South East Queensland Koala Conservation State Planning Regulatory Provisions (Proposed Koala SPRPs) and the Draft Koala Conservation State Planning Policy (Draft Koala SPP).

These documents represent a blunt and poorly conceived approach to the management of koala habitat in the region. The Proposed Koala SPRPs take a draconian approach that removes the basic rights of land holders without compensation. Together, these documents will affect 52,000 hectares, with a large quantity of land being effectively removed from the urban footprint, which will have serious land use implications for South East Queensland.

If the State Government is genuinely concerned about the conservation and rehabilitation of koala habitat within the South East Queensland urban footprint, it should dedicate funds to acquiring and revegetating suitable land at a fair market price or enter into suitable conservation agreements with landowners (and compensate them accordingly).

The State Government is, instead, seeking to justify its actions as being for the 'protection of public interest'. It is not in the public's interest to erode property rights, and acquire freehold land by stealth. As said by High Court Justice Ian Callinan in the case of *Chang v Laidley Shire Council* [2007] HCA 37: "What the public acquires or enjoys the public should pay for."

The Property Council has prepared a detailed submission (attached). The submission also addresses the Draft South East Queensland Koala State Planning Regulatory Provisions (*Draft Koala SPRPs*), which we understand will be repealed when the Proposed Koala SPRPs commence.

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We would like to draw your attention to the following areas of significant concern.

1. A lack of good governance

In recent months the Queensland Government has released a plethora of plans and legislation affecting the property industry. These include, amongst others, the *South East Queensland (SEQ) Regional Plan*, the *Sustainable Planning Act*, the *Draft Queensland Coastal Plan 2009*, the *Queensland Planning Provisions*, the *SEQ Climate Change Management Plan*, the *Draft Koala SPRPs*, the *Proposed Koala SPRPs* and the *Draft Koala SPP*. It is apparent that there has been a lack of coordination in the preparation of all of these documents.

The inconsistencies in intent and application of these documents have and will continue to stifle development in South East Queensland at a time when the region faces a major challenge in accommodating a growing population. There is significant confusion as to how all of these elements fit together.

With specific reference to the Proposed Koala SPRPs and the Draft Koala SPP, this confusion is further exacerbated by the fact that supporting guidelines have not been made available for comment and it is unclear whether they will be made available before being produced in final form.

2. Rights to compensation and existing approvals

To the extent that private land is located in the KPA1 area, the land will effectively be sterilised, except for minor development and limited non-urban purposes. There will be no compensation payable for the diminution in the value of the land caused by these requirements in the Proposed Koala SPRP.

Similarly, to the extent that private land is in the KPA2 and KPA3 areas, development on this land will be subject to varying degrees of control depending on the purpose and location of the land.

The Property Council strongly opposes the fact that no compensation will be made available to landowners who will see their investments adversely impacted by the above referenced documents or by lengthy delays and or costly appeal processes that occur as a result of the need to interpret these documents.

In addition, existing approvals must preserved.

3. A balance lost

The purpose of both the Integrated Planning Act 1997 and the Sustainable Planning Act 2009 is to seek to achieve ecological sustainability – defined as a balance that integrates protection of ecological processes and natural systems, economic development and the



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wellbeing of people and communities. The Draft Koala SPRPs, the Proposed Koala SPRPs and the Draft Koala SPP show very little evidence of that balance being struck. Instead, it appears that these documents have been drafted with an emphasis on protecting ecological processes and natural systems, and without regard to the impacts on economic development.

4. Action without proper mapping

There are various instances where the information contained in the mapping, which forms the basis of the imposition of prohibitions and restrictions, has not been subject to sufficient verification. This is unacceptable given the serious consequences of the mapping.

Further, a fair, open and accountable review process should be available to landowners to question the manner in which the land is mapped.

5. Biodiversity Development Offset Areas will not work

The Biodiversity Development Offset Area (BDOA) provisions in the Draft Proposed SPRPs are not workable, and will require significantly more explanation and legislative change to be implemented. The implications of this process for land owners, local governments, referral agencies and the community need to be considered. For instance, it is unlikely that local governments will be able to meet the infrastructure requirements for sites outside the urban footprint.

If the Proposed SPRPs are to be implemented in December 2009, there will be no time for the above matters to be addressed.

Also, if a receive site meets the requirements of 4.2.2(a) Draft Proposed SPRPs, one wonders why this land is not already included in the urban footprint

6. Tufts of green vs habitat corridors

The prohibitive approach proposed by the State Government does not consider the possibility of sustainable development being undertaken that will in some circumstances enhance and rehabilitate koala habitat and create effective green corridors.

The Property Council submits that the creation of 'green tufts' in the South East Queensland urban footprint (by 'conserving' parts of development sites), will do little to achieve koala conservation. The State Government should be focussing on the creation of movement corridors – in close cooperation with the property industry – that have multiple functions (including koala sensitive design for roads and waterworks), and which would allow koalas to move between established koala habitats.



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It is also not clear who would look after the newly created koala habitat pockets, and, again, it is unlikely that local governments would be willing to take on this responsibility.

The Proposed Koala SPRPs and the Draft Koala SPP will only serve to confuse planning within the urban footprint and lead to the erosion of rights of property owners, which is unacceptable.

The Draft Koala SPRPs have been described as "a moratorium on clearing vegetation". They are, however, more accurately described as a "moratorium on development" in protected koala bushland habitat areas. This will have far reaching implications for the Queensland building and development industry, put additional strain on the issue of housing affordability, and seriously impede Queensland's growth and development prospects.

The Property Council urges you to take urgent and decisive action to foster development opportunities and establish an efficient legislative background to support the development and growth of Queensland within the identified urban footprint under the South East Queensland Regional Plan.

The Minister for Climate Change and Sustainability, the Hon. Kate Jones MP, has also been sent a copy of the attached submission.

Please do not hesitate to contact me on 3225 3000 if you have any queries in relation to this submission.

Yours sincerely

Steve Greenwood
EXECUTIVE DIRECTOR

The **Voice** of Leadership



Draft South East Queensland Koala Conservation State Planning Regulatory Provisions *and the* Draft State Planning Policy – Koala Conservation

A submission prepared by the Property Council of Australia (QLD)



1 Summary

1.1 General Comments

1. In preparing State planning documents under the Integrated Planning Act 1997 (IPA) and under the Sustainable Planning Act 2009 (SPA), the State must do so in a way that advances the Acts' purpose.
2. The purpose of both the IPA and the SPA is to seek to achieve ecological sustainability. In both cases, ecological sustainability is defined as a balance that integrates protection of ecological processes and natural systems, economic development and the wellbeing of people and communities.
3. The Draft Koala SPRPs, the Proposed Koala SPRPs and the Draft Koala SPP show very little evidence of that balance being struck. Instead, it appears that these documents have been drafted with an emphasis on protecting ecological processes and natural systems, and without regard to the impacts on economic development.
4. The instances in which a person may seek an exemption from the effects of these documents are limited, and the indiscriminate use of prohibitions, rather than selecting an appropriate regulatory tool, is unjustified, particularly in the absence of compensation being available.
5. The use of prohibitions is a blunt tool. The objectives identified in the Koala documents can, in most cases, be best achieved by allowing development to proceed in a controlled manner, and imposing on the approval of that development sensible requirements for land dedication, protection and rehabilitation. In this way, suitable habitat can be secured and improved. The sterilisation of land through prohibitions, however, will have the effect of hastening the deterioration of land (due to weed infestation and feral animal invasion). A land owner will have little incentive to care for land which has no potential for development. A far better outcome can be achieved by allowing development to proceed, with the "price" of the development being the dedication, protection or rehabilitation of valuable habitat. In order to extract this "price", the development that is permitted must, of necessity, be more than minor or non-urban development, as the economic benefits to be gained from such development will not be sufficient to meet the costs involved in dedicating, protecting and rehabilitating habitat.

1.2 Draft Koala SPRPs

6. The Draft Koala SPRPs have the effect of prohibiting development in the protected koala bushland habitat area, other than minor development.
7. The use of broad scale prohibition, rather than regulation, is a poorly conceived response to a specific problem, which will have serious land use implications.

1.3 Proposed Koala SPRPs

8. The Proposed Koala SPRPs have the effect of:
 - (a) prohibiting an application for a material change of use and reconfiguring a lot in a KPA1 area for the purposes of an urban activity; and
 - (b) prohibiting operational work for clearing native vegetation in a KPA1 area for the purposes of an urban activity.

9. All other development within the South East Queensland Koala Protection Area (other than development identified in section 1.4) is required to comply with the requirements in Schedule 3.
10. To the extent that private land is located in the KPA1 area, the land will effectively be sterilised, except for minor development and limited non-urban purposes. There will be no compensation payable for the diminution in the value of the land caused by these requirements.
11. Similarly, to the extent that private land is in the KPA2 and KPA3 areas, development on this land will be subject to varying degrees of control depending on the purpose and location of the land.
12. In light of the above, it is imperative that:
 - land is mapped accurately;
 - a fair, open and accountable process is available for a landowner to challenge the manner in which the land is mapped;
 - unnecessary limitations are not placed on development;
 - artificial and arbitrary assumptions are not made for the purpose of development assessment;
 - the Specific Outcomes in Schedule 3, Annexe 1 are not in the nature of Probable Solutions, which have the effect of further prohibiting development.
13. The Biodiversity Development Offset Area (**BDOA**) provisions in the Draft Proposed SPRPs are not workable, and will require significantly more explanation and legislative change in order for these provisions to be implemented. The implications of this process for land owners, local governments, referral agencies and the community need to be considered.

1.4 Draft Koala SPP

14. The Draft Koala SPP will have the effect of requiring makers of planning instruments to place areas within the bushland habitat or high or medium rehabilitation habitat in a conservation and open space zone.
15. It will then only involve a small step to provide, at a State wide level, through the standard planning scheme provisions, for a list of development that will be prohibited within this zone. If this action is taken, land owners will have no redress, including no ability to claim compensation.
16. The above requirements, in conjunction with other provisions in the Draft Koala SPP (discussed further below), will have the effect of "downzoning" and sterilising large areas of land, including land within the Urban Footprint.

1.5 Mapping

17. There are various instances where the information contained in the mapping, which forms the basis of the imposition of prohibitions and restrictions, has not been subject to sufficient verification. This is unacceptable given the serious consequences of the mapping.

2 Draft Koala SPRPs

1. The Draft Koala SPRPs replaced the South East Queensland Koala State Planning Regulatory Provisions, which commenced on 1 July 2009 and were due to expire on 28 February 2010.
2. The Draft Koala SPRPs are described on the Department of Infrastructure and Planning website as "a moratorium on clearing vegetation". They are, however, more accurately described as a moratorium on development in protected koala bushland habitat areas.
3. The effect of Division 2 of the Draft Koala SPRPs is to prohibit development, other than minor development and development for community infrastructure on State Government land.
4. Division 2 prohibits reconfiguration, other than reconfiguration that will not result in the creation of an additional lot. This effectively limits reconfiguration applications to boundary realignments, access easements and long term leases.
5. Table 1, Column 1, Item 2 permits development that meets a number of cumulative criteria. If the moratorium was simply limited to the clearing of vegetation, only items 2(b) and 2(d) would be relevant or required.
6. The provisions in Division 3 relating to the interim koala habitat protection areas contain no prohibitions, but instead impose assessment criteria on development, other than minor development. A similar approach to protected bushland habitat areas should have been adopted.
7. Division 4 requires the preparation of a koala habitat management plan where it is proposed to offset the loss of mature koala habitat trees. The management plan is to be contained within a development application lodged with the assessment manager during the application stage. This is yet another example of an application requirement not being identified in the legislation, but in other documents.
8. The identified methods of securing offsets in Schedule 4, section 4.4 fail to recognise that an offset may also be achieved through the sale of land to the State or a local government or an approved entity for the purpose of koala conservation.
9. The terms "protected area" and "parkland estate" in the 4th dot point of schedule 4, section 4.4 are not defined.
10. The long term protection afforded by proposing the inclusion of land within a zone under a planning scheme which has a biodiversity/conservation intent (as proposed in the 5th dot point of schedule 4, section 4.4), in the absence of one of the other requirements, is queried.
11. Section 1.4(b) needs to be broadened to allow further development applications to be made to implement the development the subject of the exemption. By way of example, if a persons holds a reconfiguring a lot approval, but cannot act upon this approval without making a development application for operational work, this latter application should be caught by the exemption.
12. The inability to make development applications due to the prohibition imposed by Division 2 is having a number of unintended consequences. In particular, the inability to make a

development application for a related approval is depriving some applicants of the ability to roll forward their development approvals under section 3.5.21 of the *Integrated Planning Act 1997*.

3 Proposed South East Queensland Koala Conservation State Planning Regulatory Provisions – November 2009

1. The following table contains detailed comments about the Proposed Koala SPRPs:

Section	Comment
1.4(a) & (b)	<p>The "South East Queensland Koala Protection Area" is defined as the area shown as the South East Queensland Koala Protection Area on Map 1 mentioned in schedule one.</p> <p>Map 1 does not appear to be available for public consultation. It is assumed that Map 1 will show the area outlined in the Key Map dated November 2009.</p>
1.4(b)(i)	<p>This section provides that the SPRPs do not apply to development that is exempt from assessment against a planning scheme under the <i>Integrated Planning Act 1997</i>, Schedule 9 <u>but</u> only where conducted by the Queensland Government or Queensland Government statutory authorities, including those under the <i>Government Owned Corporation Act 1993</i>.</p> <p>There would appear to be no justification for limiting this exemption to the Queensland Government and its entities.</p>
1.4(b)(ii)(A)	<p>It is assumed that the word "previously" should be "properly". That is, the SPRPs do not apply to a development carried out under a development approval which has not lapsed for a development application that was <u>properly made</u> before the SPRPs commenced.</p> <p>This exemption needs to be expanded to relate not only to the particular development the subject of the development approval, but to further development applications needed to facilitate or implement the development generally in accordance with the development approval.</p>
1.4(b)(ii)(B) & 1.4(b)(iii)(B)	<p>Section 1.4(b)(ii)(B) refers to a development application "to which Division 2 or Division 3 of these state planning regulatory provisions applied".</p> <p>Section 1.4(b)(iii)(B) refers to a development application "assessed against Division 2 or Division 3 of these state planning regulatory provisions".</p> <p>Does the difference in terminology signify a different test?</p>
1.4(b)(iii)(B)	<p>The exemption with respect to development that is consistent with a section 3.1.6 preliminary approval is limited to development that is exempt or self-assessable development.</p> <p>There would appear to be no justification for placing such a limitation on this exemption: ie the exemption should relate to all development.</p>

Section	Comment
2.1 & 3.1	The references to "Section 1.3" should be replaced with references to "Section 1.4".
2.1(b)	<p>Section 2.1(b) states that a development application for a material change of use or reconfiguring a lot within the SEQKPA identified in Column 2 of Table 1 is to be <u>assessed</u> against the identified assessment criteria.</p> <p>This statement is misleading in so far as it relates to development not identified in column 1 which is for an urban activity and in the KPA1 area. In these circumstances, the development is <u>prohibited</u>.</p>
Table 1, Column 1, (2)	It is assumed that the requirements listed in items (a) to (f) are cumulative requirements.
Table 1, Column 1, (2)(c) Table 2, Column 1, (2)(c)	The requirement that "Development on premises that will result in: ... (c) no additional traffic in the area between 6 pm on a day and 6 am on the following day" will have the effect of making this section ineffective. Even the introduction of a single vehicle during this period would offend this requirement. Given that the other requirements in (2) would only permit small scale development to proceed without regard to the assessment criteria, it seem unnecessary to include this further requirement.
Table 1, Column 1, (2)(d)	The phrase "a total a development footprint" should read "a total development footprint".
Table 1, Column 2, (1)(a)	<p>The meaning of this provision is difficult to determine because of the drafting.</p> <p>Does the provision mean that "urban activity" <u>excludes</u> rural residential activities, community infrastructure activities <u>and</u> works in a BDOA receive site?</p> <p>Alternatively, does the provision mean that "urban activity" only <u>excludes</u> rural residential activities? If this interpretation is correct, are community infrastructure activities and works in a BDOA receive site prohibited in a KPA1 area?</p> <p>A further query arises with both of these interpretations - how is it possible for land in the KPA1 area to become a BDOA receive site given the requirements in clause 4.2.2(c)?</p>
Division 3 and 3.1	It is assumed that this division only applies to a development application for operational work for clearing of native vegetation. If so, this needs to be clearly identified in the drafting of this section.
Table 2, Column 1, (2)	If the assumption made above is correct, it is unclear why it is necessary for (2)(b) to (f) to be included. Surely, it is only the clearing of native vegetation that is relevant?

Section	Comment
Division 4, para 1	<p>This paragraph introduces new, and undefined, terminology, in the form of "high koala conservation values", "low koala conservation value" and "no koala conservation value".</p> <p>Given the plethora of defined terms used in the document, it is suggested that use be made of one or more of the existing definitions.</p>
Division 4, para 1	<p>It is noted that areas previously identified as Regional Landscape and Rural Production Areas (RLRPAs) and Rural Living Areas (RLAs) (presumably based on justifiable criteria) and placed outside the reach of urban development, can now become the recipient of "development pressure".</p>
4.1	<p>It is noted that sections 2.1 and 3.1 of the South East Queensland Regional Plan 2009-2031 (SEQRP) Regulatory Provisions do not apply to development in the RLRPA and RLA, if the premises are an approved BDOA.</p> <p>It is assumed that the reference to "an approved BODA" is really to a BODA receive site.</p> <p>If a BODA receive site is to become the recipient of "development pressure", it would appear to also be necessary to suspend other components of the SEQRP in relation to these sites. If this is not done, the SEQRP (which will be relevant to the assessment of development applications on these sites) may have the effect of stopping such development from proceeding.</p>
4.2.1(a)	<p>Why are send sites limited to those with high, medium or low value bushland habitat?</p> <p>Why is this option not available in the case of sites having rehabilitation habitat and other areas of habitat?</p>
4.2.1(b)	<p>A send site must have <u>planning</u> and <u>development</u> entitlements.</p> <p>The terms "planning entitlement" and "development entitlement" are not defined.</p> <p>It is assumed that a "planning entitlement" is an entitlement under a planning scheme or temporary local planning instrument. Does it also refer to "planning entitlements" under other planning instruments? This needs to be clarified.</p> <p>It is assumed that a "development entitlement" is a current development approval, whether a section 3.1.5 preliminary approval, a 3.1.6 preliminary approval or a development permit. Does it also refer to a development entitlement in the form of a compliance permit? This needs to be clarified.</p> <p>In order to allow this section to have the widest possible effect, these</p>

Section	Comment
	matters, if defined, need to be defined broadly.
4.2.1(c)	The word "pattern" should be "patterns".
4.2.1(e)	A further alternative is the area being purchased by the State or a local government or an approved entity.
4.2.1(e)(iv)	The terms "protected area" and "parkland estate" need to be defined.
4.2.1(e)(v)	The inclusion of land in a zone with a biodiversity/conservation intent, without more, may not achieve the "long term protection" sought by this section.
4.2.2(a)	If a receive site meets the requirements in section 4.2.2(a), one wonders why this land is not already included in the Urban Footprint.
4.2.2(c)(i)	<p>The term "Priority Koala Management Area" is defined as an area identified as a Priority Koala Management Area on the Koala Planning Area maps.</p> <p>There is no such area identified on the Koala Planning Area maps. These maps show KPA1, KPA2 and KPA3 areas.</p>
4.2.2(e)	"Particular" should be "particularly".
4.2.2(g)	The words "The site has existing direct access to essential services and infrastructure, including transport linkages to established urban areas." appear in both sections 4.2.2(f) and 4.2.2(g).
4.2.2(g)	This section requires that the receive site is "contiguous" with the Urban Footprint boundary. If this is interpreted to mean "touching" or "adjoining" the Urban Footprint boundary, this requirement could be very limiting. For example, land separated by a road from land in the Urban Footprint will not qualify as a receive site, although it meets all of the other requirements.
Division 4	<p>There are quite a few uncertainties regarding the implementation of the BODA concept. These matters would need to be dealt with by way of significant legislative amendment.</p> <p>Some queries are listed below.</p> <p><u>Development Entitlement</u></p> <ul style="list-style-type: none"> • How will development entitlements (i.e. a development approval) be transferred from a send site to a receive site? • Will a new development entitlement/approval be issued to reflect the change to the land description, and if so, by whom? • It is likely that all of the conditions imposed on a development entitlement/approval (by the assessment manager and referral agencies) relating to the send site will not be applicable to the receive site. If the conditions need to be amended, who will be

Section	Comment
	<p>responsible for this action?</p> <ul style="list-style-type: none"> • If the conditions are altered, will the applicant have a right of appeal? • It is likely that new plans of development will need to be prepared. What is the process by which this occurs? • What about the rights of submitters? • What about the rights of potential submitters who may have wished to object to the development of the receive site? • In some cases, there may not be a single development entitlement/approval. It may be the case that a development has the benefit of multiple development approvals (e.g. for a material change of use, for reconfiguring a lot, for various operational works components). • How will the development entitlement/approval be dealt with if it has been partly implemented (e.g. for a staged development, where some of the stages have been implemented)? • How will site specific considerations of the receive site be dealt with? • If it is intended to only transfer a "development entitlement" (e.g. an entitlement to X lots per hectare) rather than a development approval, will the beneficiary of the transfer be required to obtain a new development approval (with all the uncertainties inherent in this process)? <p><u>Planning Entitlement</u></p> <ul style="list-style-type: none"> • How will the change to a planning entitlement be reflected in the relevant planning instruments in a timely manner? <p><u>Notification</u></p> <ul style="list-style-type: none"> • Notification in the Qld Government Gazette should be supplemented by other forms of notification. <p><u>Other Matters</u></p> <ul style="list-style-type: none"> • What effect will the transfer of planning or development entitlements from a send site to a receive site have on contractual arrangements, financial arrangements, securities etc.
Schedule 1 – Maps	A careful analysis, on a site by site basis, needs to be undertaken to ensure that, for each parcel of land, there is correlation between the KPA designations and the SEQ Koala Habitat Values. It should not be the case, for example, where areas of low or no habitat values are

Section	Comment
	identified as being KPA1 areas.
Schedule 2 – Definition of Bushland habitat area	<p>Bushland habitat area is an area that –</p> <p>(a) is mapped as bushland habitat on the SEQ Koala Habitat Values map; or</p> <p><u>(b) through on-ground analysis, in accordance with methodology outlined in the supporting guideline, contains a woody species crown cover greater than or equal to 50 percent of the area.</u></p> <p>The second component of the definition is objectionable for a number of reasons.</p> <p>First, bushland habitat is the area of highest protection, with the most stringent development requirements. As such, persons are entitled to expect certainty regarding the location of such areas.</p> <p>Second, the supporting guidelines are not available for comment, and it is unclear whether they will be made available for comment before being produced in final form.</p> <p>Third, the status of the supporting guidelines is unclear.</p> <p>Fourth, who will be making this determination? If this determination is made, for example, by DERM as a concurrence agency during the development assessment process, an applicant will have already spent a considerable amount of money and time preparing an application, only to be unexpectedly faced with new requirements.</p> <p>In summary, the bushland habitat area needs to be confined to an area that is mapped as bushland habitat on the SEQ Koala Habitat Values map.</p>
Schedule 2 – Definitions of High koala habitat value, Medium koala habitat value, Low koala habitat value	<p>The same comments as above apply with respect to these definitions.</p> <p>As these definitions also influence the meaning of further definitions, it is imperative that these definitions are certain and the areas are clearly mapped, rather than being subject to a further determination, based on, as yet, undisclosed supporting guidelines.</p> <p>The other definitions affected are - High value bushland habitat area, Medium value bushland habitat area, Low value bushland habitat value area, High value rehabilitation area, Medium value rehabilitation area, Low value rehabilitation area, High value other area, Medium value other area and Low value other area.</p>
Schedule 3 – Definitions of "Other area of habitat" and "Rehabilitation habitat area"	<p>These areas should be defined by reference to the SEQ Koala Habitat Values map, in addition to the area requirements.</p>

Section	Comment
Schedule 3 – Definitions of Receive site and Send site	<p>Section 4.2.1(b) refers to a send site as having "<u>planning and development entitlements</u>" which are assessed as likely to lead to significant impacts on koala habitat values.</p> <p>The definition of "Receive site" is "an area to which <u>development approvals</u> may be transferred under a Biodiversity Development Offset Area declaration".</p> <p>The definition of "Send site" is "an area from which <u>development approvals</u> may be transferred under a Biodiversity Development Offset Area declaration".</p> <p>There needs to be consistency between the terminology used in Division 4 and the definitions in Schedule 3.</p>
Schedule 3, Annexe 1, A1.2	<p>This section says that where multiple habitat types are present on the lot(s) subject to the application, assessment will consider that the development is located in the highest value habitat type, unless otherwise demonstrated in the application.</p> <p>This section imposes an arbitrary and artificial assessment criterion on all applications to be assessed under Schedule 3.</p> <p>It should, instead, be the case that the relevant assessment table is referred to, based on the purpose and location of the proposed development (as per A1.1). This may mean that different assessment criteria apply to different areas of a lot.</p>
Schedule 3, Annexe 1, A1.3	<p>This section contains yet another example of arbitrary and artificial assessment criteria being imposed on the assessment of a development application.</p> <p>For a material change of use or reconfiguration of a lot application there should be no deeming provision about the area to be cleared. The applicant should, instead, be asked to provide this information as mandatory supporting information to the development application, and this aspect can be conditioned accordingly.</p>
Schedule 3, Annexe 1, Part 1, PS2	<p>Probable Solution PS1 refers to the "Koala Safety Fencing and Measures Guideline". No such guideline has been released for public consultation.</p> <p>These Guidelines are also referred to in Part 1, PS3, Part 2, PS4, PS5.2, Part 3, PS5, PS6.2, Part 4, PS 4, PS 5.2, Part 5, PS3, PS4.2, Part 6, PS4, PS5.2, Part 7, SP2, SP3.2.</p>
Schedule 3, Annexe 1, Part 3, SO1	<p>This Specific Outcome relates to "Bushland habitat retention in receive site". This is curious given that section 4.2.2(c)(ii) states that a receive site is not located within a Bushland habitat area.</p>

4 Draft Koala SPP

1. The Draft Koala SPP is to be supported by a Planning Policy Guideline. This Guideline is not available for review. It is imperative that both documents be available for review, as the Guideline is said to provide advice about implementing the Draft Koala SPP.
2. Unlike other SPPs, the Draft Koala SPP contains no specific requirements for development assessment. This is appropriate, as it would be unhelpful to duplicate the material already contained in the proposed Koala SPRPs.
3. The Draft Koala SPP does, however, have application to the making or amending of planning instruments.
4. The following specific comments are made:

Section	Comment
1.1	The reason for including the words "in particular within the Urban Footprint" is unclear.
2.9	The provisions of the Draft Koala SPP should have a clear and defined area of operation. This section should therefore be deleted, as it will unnecessarily complicate both the process of making planning instruments and the development assessment process.
3.4	<p>The priority appears to be to allocate areas of bushland habitat or high or medium value rehabilitation habitat to the conservation and open space zone (see section 3.4(b)(i)). The alternative suggestions in section 3.4(b)(ii) are only available where "it is not practicable" to allocate these areas as conservation or open space. It is unclear how the determination of whether or not such allocation "is practicable" will be made by the State and local governments when preparing planning instruments.</p> <p>The above concerns are also raised with respect to sections 3.5(b)(i)(B), 3.5(b)(ii)(A), 3.6(b)(B) and 3.6(b)(ii)(A).</p>
3.4(c)	<p>This section states that "areas of existing and potential koala habitat suitable for protection, <u>transfer</u>, <u>acquisition</u> and rehabilitation within the area subject to the local planning instrument are identified – with emphasis on areas of high value rehabilitation habitat, medium value rehabilitation habitat and those <u>areas that will provide the greatest landscape connectivity and habitat values for koalas.</u>" (emphasis added).</p> <p>What is meant by "transfer"? Is this a reference to a send site in a BDOA? If so, this should be made clear.</p> <p>How is it proposed to identify areas suitable for "acquisition"? Is this a reference to "compulsory acquisition" under the Acquisition of Land Act or a similar regime? Taking such action will have the effect of immediately sterilising and devaluing the land, yet the land owner will be</p>

Section	Comment
	<p>incapable of taking any action to force either the State or the local government to proceed with the compulsory acquisition. This is grossly unfair.</p> <p>What are these unidentified "areas that will provide the greatest landscape connectivity and habitat value for koalas"? It is unsatisfactory that areas that have not been mapped as bushland habitat, rehabilitation habitat or other habitat may be subject to such limitations.</p> <p>These concerns also arise with respect to sections 3.5(c) and 3.6(c).</p>
3.4(d)	<p>In light of the comprehensive measures contained in the Proposed Koala SPRPs, and the need to avoid duplication (or worse, conflict), it is unclear why it is necessary for local planning instruments to comply with sub-paragraph (d).</p> <p>This same concern arises with respect to sections 3.5(d) and 3.6(d).</p>
3.4, 3.5 and 3.6	<p>The allocation of areas to conservation or open space areas is often prefaced by the words "where practicable". It is unclear how this will be interpreted by the State or local governments when settling upon the content of planning instruments.</p>
Annexe 4	<p>This section identifies the planning methodology adopted in identifying Koala Planning Areas.</p> <p>The methodology adopted is flawed in the following respects:</p> <ul style="list-style-type: none"> It purports to link land use allocations under planning schemes with koala habitat values, when there may, in fact, be little correlation between these components. For example, the KPA1 area includes all SEQ Koala habitat values within the SEQKPA inside the urban footprint that are currently identified in the relevant local government planning schemes for conservation or open space purposes. The designation of land for conservation or open space purposes may have little, or, in fact, nothing, to do with protecting koala habitat or for koala conservation purposes; With respect to the KPA1 area, this area is said to include <u>"all SEQ Koala habitat values"</u> within the SEQKPA outside the urban footprint, excluding non-habitat and water and identified growth areas under the SEQRP". The KPA1 area is the area of the highest restrictions. To take such a broad based approach to the designation of this area is not justified, and is not consistent with the intent for the KPA1 area as identified in Annexe 3, A3.1. Based on this intent, areas of low value rehabilitation habitat and high, medium and low value other habitat should <u>not</u> be included in the KPA1. Annexe 3, A3.1 clearly states that the

Section	Comment
	<p>priorities for this area are (a) protection of high value, medium value and low value bushland habitats and high value and medium value rehabilitation habitats from urban development and (b) the restoration and rehabilitation of high value and medium value rehabilitation habitats.</p>

5 Mapping

1. The Koala documents operate, in the main, on the basis of mapping. The mapping of an area as bushland habitat, rehabilitation habitat, other habitat or as being within the Koala Planning Areas or the Priority Koala Management Areas has very serious implications for land owners through the Proposed Koala SPRPs and also because of subsequent amendments to planning instruments through the Draft Koala SPP. These implications include the prohibition of certain uses, the use of land being restricted by the assessment criteria contained in Schedule 3 of the Proposed Koala SPRPs and the effective sterilisation and devaluation of land.
2. It is understood that this mapping has been based, in part, on the work undertaken by GHD as contained in the document entitled "Department of Environment & Resource Management South East Queensland Koala Habitat Assessment and Mapping Project", dated May 2009. While this document contains an impressive body of work, Chapter 8 is perhaps the most important, where the authors clearly set out the limitations of the report. In particular, section 8.2.4 of the document concludes with the following paragraph:
3. "As the primary purpose of the map was to provide an indicative depiction of koala habitat at the regional SEQ scale, if the use of the map is to have statutory effect, then detailed field assessments must accompany any planning instrument that is developed to account for any mapping boundary discrepancies or changes in koala distribution and use of habitat over time."
4. Have the detailed field assessments been undertaken before giving the mapping statutory force and effect through the most powerful planning instruments, the Draft Koala SPRPs and the Proposed Koala SPRPs? If this question is answered in the negative, it constitutes a serious misuse of the powers conferred by the planning legislation.



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4 March 2010

05 MAR 2010

The Hon. Kate Jones MP
Minister for Climate Change and Sustainability
Department of Environment and Resource Management
Reply paid 15155
CITY EAST QLD 4002

Dear Minister,

South East Queensland Koala State Planning Regulatory Provisions and the Draft Koala Conservation State Planning Policy

The Property Council of Australia again reiterates that it has major concerns with both the South East Queensland Koala State Planning Regulatory Provisions (Koala SPRPs) and the Draft Koala Conservation State Planning Policy (Draft Koala SPP), our submission of 10 December 2009 also refers.

These documents represent a blunt and poorly conceived approach to the management of koala habitat in the region. The Proposed Koala SPRPs take a draconian approach that removes the basic rights of land holders without compensation, and will see large areas of land previously earmarked for development sterilised and devalued.

If the State Government is genuinely concerned about the conservation and rehabilitation of koala habitat within the South East Queensland urban footprint, it should dedicate funds to acquiring and revegetating suitable land at a fair market price or enter into suitable conservation agreements with landowners (and compensate them accordingly). It is unequitable that one segment of society is now required to foot the bill to reverse years of poor koala conservation practice.

The Property Council has prepared a detailed submission (attached). The Koala SPRPs and the Draft Koala SPP will only serve to confuse planning within the urban footprint and lead to the erosion of rights of property owners, which is unacceptable.

The Koala SPRPs have been described as "a moratorium on clearing vegetation". They are, however, more accurately described as a "moratorium on development" in protected koala bushland habitat areas. This will have far reaching implications for the Queensland building and development industry, put additional strain on the issue of housing affordability, and seriously impede Queensland's growth and development prospects under the South East Queensland Regional Plan.

① DIKRS
APPEARS TO BE
AN ACCUMULATION OF
SUBMISSIONS, SOME
THAT WE MAY
ALREADY HAVE
RECEIVED

The **Voice** of Leadership





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The previous Draft Koala SPRPs were deficient in providing clear exemptions to adequately protect rights accrued before their commencement. Although the February 2010 Koala SPRPs have been amended, they again fail to exempt and facilitate development under a protected existing development approval, in circumstances where subsequent development permits are required to enable the project to be carried out. Further an exemption should be included for declared master planned areas for which a structure plan has effect.

The proposed Koala Planning legislation operates, in the main, on the basis of mapping. The Property Council is very concerned that although the consultants who prepared the mapping document provided a disclaimer that if the mapping was to have statutory effect, detailed field assessment should accompany the planning instruments. Yet, it is not clear if detailed field assessments have indeed been undertaken – nor is there any right of appeal for property owners captured by the mapping.

The Property Council urges you to take urgent and decisive action to foster development opportunities and establish an efficient legislative background to support the development and growth of Queensland within the identified urban footprint under the South East Queensland Regional Plan.

As requested, the Property Council has provided in a confidential Annexe a number of examples of property owners that will be adversely affected by the proposed Koala Planning Laws.

The Minister for Planning and Infrastructure, the Hon. Stirling Hinchliffe MP, has also been sent a copy of the attached submission.

Please do not hesitate to contact me on 3225 3000 if you have any queries in relation to this submission.

I appreciate the extension of the deadline for this submission until 5 March 2010 as afforded to this office.

Yours sincerely

Steve Greenwood
EXECUTIVE DIRECTOR

The **Voice** of Leadership



South East Queensland Koala State Planning Regulatory Provisions *and the* Draft State Planning Policy – Koala Conservation

A second submission prepared by the Property Council of Australia (QLD) on
the revised Draft Koala Planning Legislation



1 Matters addressed in the submission

1. The following documents dealing with Koala conservation are open for consultation:
 - (a) Draft South East Queensland Koala Conservation State Planning Regulatory Provisions (*Draft SPRPs*);
 - (b) Draft South East Queensland Koala Conservation State Planning Regulatory Provisions Guideline (*Draft SPRP Guideline*);
 - (c) Draft South East Queensland Koala Conservation State Planning Policy (*Draft SPP*);
 - (d) Draft South East Queensland Koala Conservation State Planning Policy Guideline (*Draft SPP Guideline*).
2. The content of this submission is, of necessity, similar to a submission made by the Property Council of Australia on 1 December 2009, to the extent that matters raised in that submission have not been addressed. This submission does, however, raise new issues which have arisen from the abovementioned documents. This submission also addresses the Draft South East Queensland Koala State Planning Regulatory Provision (*Nov SPRPs*) released in December 2009.

2 Key points

3. The Nov SPRPs and the Draft SPRPs rely on prohibitions to achieve their objectives.
4. These prohibitions have the effect of sterilising and devaluing large areas of land, with no compensation being made available to land owners for loss of existing rights and entitlements.
5. The exemptions provided are limited, and generally inadequate. The exemptions need to be extended to ensure existing development approvals are protected and preserved in full, and that related approvals can be obtained in order to undertake approved development. An exemption needs to be included for declared master planned areas for which a structure plan has effect.
6. To the extent that the Draft SPRPs rely on regulation to achieve their objectives, the provisions are poorly drafted, uncertain in their operation and overly prescriptive. The generic nature of the regulations further limits their application.
7. The Biodiversity Development Offset Area (*BDOA*) provisions continue to be unworkable in their current form, and require legislative support.
8. The methodology used to classify land into Koala Protection Areas (*KPAs*) is flawed, has little regard to the koala habitat values exhibited by the land and has been undertaken without ground truthing. Despite these shortcomings, it is the basis on which land is sterilised and development is either prohibited or regulated.
9. The Draft SPP imposes further restrictions on land use by directing local government to down zone land having bushland habitat and high and medium rehabilitation values. The restrictions required to be placed on this land are additional to, and inconsistent with, those contained in the Draft SPRPs.

10. The Draft SPRP Guidelines are replete with errors, and will provide little assistance in interpreting the Draft SPRPs.

3 Ecological sustainability – without the balance

11. In preparing State planning documents under the *Sustainable Planning Act 2009 (SPA)*, the State must do so in a way that advances the Acts' purpose.
12. The purpose of the SPA is to seek to achieve ecological sustainability. Ecological sustainability is defined as a balance that integrates protection of ecological processes and natural systems, economic development and the wellbeing of people and communities.
13. The Koala planning instruments show very little evidence of that balance being struck. Instead, it appears that these documents have been drafted with an emphasis on protecting ecological processes and natural systems, and without regard to the impacts on economic development.

4 Prohibitions inhibit performance based planning

14. The use of prohibitions is a blunt tool.
15. The objectives identified in the Koala documents can, in most cases, be best achieved by allowing development to proceed in a controlled manner, and imposing on the approval of that development sensible requirements for land dedication, protection and rehabilitation. In this way, suitable habitat can be secured and improved.
16. The sterilisation of land through prohibitions, however, will have the effect of hastening the deterioration of land (due to weed infestation and feral animal invasion). A land owner will have little incentive to care for land which has no potential for development.
17. A far better outcome can be achieved by allowing development to proceed, with the "price" of the development being the dedication, protection or rehabilitation of valuable habitat. In order to extract this "price", the development that is permitted must, of necessity, be more than minor or non-urban development, as the economic benefits to be gained from such development will not be sufficient to meet the costs involved in dedicating, protecting and rehabilitating habitat.

5 Draft South East Queensland Koala State Planning Regulatory Provisions

5.2 Effect of the Nov SPRPs

18. The Nov SPRPs replaced the South East Queensland Koala State Planning Regulatory Provisions, which commenced on 1 July 2009 and were due to expire on 28 February 2010.
19. The Draft Koala SPRPs constitute a moratorium on development in protected koala bushland habitat areas.
20. The effect of Division 2 of the Draft Koala SPRPs is to prohibit development, other than minor development and development for community infrastructure on State Government land.
21. Division 2 prohibits reconfiguration, other than reconfiguration that will not result in the creation of an additional lot. This effectively limits reconfiguration applications to boundary realignments, access easements and long term leases.
22. Table 1, Column 1, Item 2 permits development that meets a number of cumulative criteria. If the moratorium was simply limited to the clearing of vegetation, only items 2(b) and 2(d) would be relevant or required.
23. The provisions in Division 3 relating to the interim koala habitat protection areas contain no prohibitions, but instead impose assessment criteria on development, other than minor development. A similar approach to protected bushland habitat areas should have been adopted.
24. Division 4 requires the preparation of a koala habitat management plan where it is proposed to offset the loss of mature koala habitat trees. The management plan is to be contained within a development application lodged with the assessment manager during the application stage. This is yet another example of an application requirement not being identified in the legislation, but in other documents.
25. The identified methods of securing offsets in Schedule 4, section 4.4 fail to recognise that an offset may also be achieved through the sale of land to the State or a local government or an approved entity for the purpose of koala conservation.

5.3 Need to provide further exemptions

26. Sections 1.4(b) and 1.4(c) need to be broadened to allow further development applications to be made to implement the development the subject of the exemption. Without the ability to make related approvals, the exemption afforded by these sections is illusory.
27. By way of example, if a person holds a reconfiguring a lot approval, but cannot act upon this approval without making a development application for operational work, this latter application should be caught by the exemption.
28. The inability to make a development application due to the prohibition imposed by Division 2 is having a number of unintended consequences. First, the inability to make a development application for a related approval is depriving some applicants of the ability to roll forward their development approvals under the SPA. Second, absent the ability to roll forward development

approvals, some development approvals will lapse, unless a local government approves an application for an extension of the relevant period.

29. The likely extension of the moratorium until the Draft SPRPs are made final will exacerbate the above difficulties. There is a clear justification for permitting a person who has obtained a development approval in accordance with the exemptions in sections 1.4(b) and 1.4(c) to make an application for a related approval.
30. In this respect, it is noted that a person relying on a rezoning approval under section 1.4(d) is, in fact, in a better position than a person relying on a development approval. A person relying on a rezoning approval is entitled to undertake "development that is generally in accordance with a rezoning approval", which, of necessity, will be broader than the rights conferred by a development approval.

5.4 Other matters

31. The terms "protected area" and "parkland estate" in the 4th dot point of schedule 4, section 4.4 are not defined.
32. The long term protection afforded by proposing the inclusion of land within a zone under a planning scheme which has a biodiversity/conservation intent (as proposed in the 5th dot point of schedule 4, section 4.4), in the absence of one of the other requirements, is queried.

6 Draft South East Queensland Koala Conservation State Planning Regulatory Provisions

6.2 Effect of Draft SPRPs

33. The Draft SPRPs have the effect of:
- (a) prohibiting a development application for development in a KPA1 area for the purposes of an urban activity (with some limited exemptions); and
 - (b) requiring all other development in a KPA 1, 2 or 3 area to comply with Schedule 3.
34. The Draft SPRPs apply to all development. That is, the Draft SPRPs apply to a material change of use, reconfiguring a lot, operational work, building work and plumbing and drainage work. Such over-regulation will result in unnecessary duplication and cost. The application of the Draft SPRPs should be limited to a material change of use, reconfiguring a lot, and certain operational work (that is unrelated to a material change of use or reconfiguring a lot).
35. To the extent that private land is located in the KPA1 area, the land will effectively be sterilised, except for minor development and limited non-urban purposes. There will be no compensation payable for the diminution in the value of the land caused by these requirements. Similarly, to the extent that private land is in the KPA2 and KPA3 areas, development on this land will be subject to varying degrees of control depending on the purpose and location of the land.
36. In light of the above, it is imperative that:
- (a) land is mapped accurately;
 - (b) a fair, open and accountable process is available for a landowner to challenge the manner in which the land is mapped;
 - (c) unnecessary limitations are not placed on development;
 - (d) the limitations placed on development are expressed with clarity and precision;
 - (e) artificial and arbitrary assumptions are not made for the purpose of development assessment;
 - (f) the Specific Outcomes in Schedule 3, Annexe 2 are not in the nature of Probable Solutions, which have the effect of further prohibiting development.

6.3 Exemptions

37. The exemptions under the Draft SPRPs need to be expanded to recognise existing rights and entitlements, and to be consistent with identified planning outcomes in other State planning instruments and processes.
38. In addition to those matters referred to below, the exemptions in section 1.4 need to be expanded to cover the following:
- (a) development applications for related approvals in connection with development exempted under sections 1.4(b)(iii) and 1.4(b)(iv);

- (b) to extend the exemption found in section 1.4(b)(iv) for preliminary approvals to development requiring code assessment;
 - (c) an identified planning area.
39. With respect to sections 1.4(b)(iii) and 1.4(b)(iv), it is necessary to extend the exemption to development applications for related approvals in order to make these exemptions meaningful. For example, exempting a material change of use from the application of the Draft SPRPs, but not the subsequent building work, is meaningless.
40. Further, with respect to sections 1.4(b)(iii) and 1.4(b)(iv), the failure to exempt development applications for related approvals will lead to a single proposal being assessed against the Draft SPRPs on numerous occasions as an applicant progressively obtains approvals for various components of development.
41. There is no reason to limit the exemption for section 3.1.6 and section 242 preliminary approvals in the manner proposed. To do so devalues a preliminary approval, and makes the exemption meaningless, as the majority of preliminary approvals require subsequent code assessable applications to be made for development.
42. A structure plan or master plan for an identified planning area, as defined in the Draft SPRPs, represents a co-ordinated (State, regional and local) planning approach for the area. To require development in an identified planning area to also comply with the Draft SPRPs is suggestive of poor co-ordination and a lack of integration.

6.4 Schedule 3

43. The criteria in Schedule 3 will regulate the use of land within KPA 1, 2 and 3 areas.
44. The criteria need to be reviewed, and "road tested", to ensure that the requirements are clear and achievable.
45. Further, the criteria are, in the main, generic. The criteria are therefore required to be workable for all types of development (e.g. residential, commercial, industrial) and for all components of development (e.g. material change of use, reconfiguring a lot, operational work, building work, plumbing and drainage work). It is likely that such generic criteria will create difficulties when sought to be implemented across all development types.

6.5 Detailed Comments

46. The following table contains detailed comments about the Draft SPRPs:

Section	Comment
1.4(b)(i) & (ii)	<p>It appears to be the intention of section 1.4(b)(ii) that community infrastructure development listed in Table 5, Schedule 4 of the Sustainable Planning Regulation 2009 (<i>SPR</i>) is only exempt from the Draft SPRP if it is conducted by or on behalf of or under contract with the Queensland Government.</p> <p>First, there is no justification for limiting this exemption in this manner.</p> <p>Second, if this exemption is to remain so limited, section 1.4(b)(i) should be amended to expressly exclude this component of development from</p>

Section	Comment
	<p>the general exemption under Schedule 4 of the SPR.</p> <p>It is said in the Draft SPRP Guideline: "Whilst this development is exempt from assessment under the draft SPRP, the State has established a concurrent that requires such development to comply with the requirements regardless of this exemption". It is unclear what is meant by a "concurrent". In any event, any such "concurrent" requirements are voluntary on the part of the State, and therefore lead to an uneven playing field being created between public and private sector providers of community infrastructure.</p>
1.4(b)(iii)(A)	<p>It is assumed that the word "previously" should be "properly". That is, the Draft SPRPs do not apply to a development carried out under a development approval which has not lapsed for a development application that was <u>properly made</u> before the SPRPs commenced.</p> <p>This exemption needs to be expanded to relate not only to the particular development the subject of the development approval, but to further development applications needed to facilitate or implement the development generally in accordance with the development approval. If this is not done, the value of this exemption is questionable.</p>
1.4(b)(iv)	<p>The exemption with respect to development that is consistent with a section 3.1.6 or section 242 preliminary approval is limited to development that is exempt or self-assessable development.</p> <p>This exemption is nonsensical, as such development would not, in any event, be caught by the SPRPs. It is noted that the Draft SPRP Guideline states: "The draft SPRP, if adopted, will apply only to development that is already assessable development under the Sustainable Planning Act 2009. The draft SPRP does not declare development to be assessable development."</p> <p>The exemption, in order to be meaningful, needs to be extended to apply to development that is code assessable and development requiring compliance assessment.</p>
2.1	<p>The requirements of Division 2 apply to <u>all development</u>. That is, these requirements apply to a material change of use, reconfiguring a lot, operational work, <u>building work</u> and <u>plumbing and drainage work</u>.</p> <p>The difficulties created by this broad approach are illustrated below:</p> <ul style="list-style-type: none"> • a person applies for a development permit for a material change of use for a specified urban activity prior to the commencement of the Draft SPRPs; • the development permit is granted following the commencement of the Draft SPRPs; • following the commencement of the Draft SPRPs, the land is

Section	Comment
	<p>designated as KPA1;</p> <ul style="list-style-type: none"> thereafter, unless the material change of use falls within the limited exemptions in Column 1 of Table 1, the person is unable to apply for a development permit for building works or plumbing and drainage works, in order to implement the development approval. <p>The same difficulties arise in relation to a reconfiguration of a lot development approval, where it is necessary, in order to effect the reconfiguration, for a development permit to be obtained for operational work.</p>
2.1(b)	<p>Section 2.1(b) states that development in the SEQKPA identified in Column 2 of Table 1 is to be <u>assessed</u> against the identified assessment criteria. This statement is misleading in so far as it relates to development not identified in Column 1 which is for an urban activity and in the KPA1 area. In these circumstances, the development is <u>prohibited</u>.</p>
Division 3, para 1	<p>This paragraph introduces new, and undefined, terminology, in the form of "high koala conservation values", "low koala conservation value" and "no koala conservation value".</p> <p>Given the plethora of defined terms used in the document, it is suggested that use be made of one or more of the existing definitions.</p>
Division 3, para 1	<p>It is noted that areas previously identified as Regional Landscape and Rural Production Areas (<i>RLRPAs</i>) and Rural Living Areas (<i>RLAs</i>) (presumably based on justifiable criteria) and placed outside the reach of urban development, can now become the recipient of "development pressure".</p>
3.1	<p>It is noted that sections 2.1 and 3.1 of the South East Queensland Regional Plan 2009-2031 (<i>SEQRP</i>) Regulatory Provisions do not apply to development in the RLRPA and RLA, if the premises are an approved BDOA.</p> <p>It is assumed that the reference to "an approved BODA" is really to a BODA receive site.</p> <p>If a BODA receive site is to become the recipient of "development pressure", it would appear to also be necessary to suspend other components of the SEQRP in relation to these sites. If this is not done, the SEQRP (which will be relevant to the assessment of development applications on these sites) may have the effect of stopping such development from proceeding.</p>
3.2.1(a)	<p>Why are send sites limited to those with high, medium or low value bushland habitat?</p>

Section	Comment
	Why is this option not available in the case of sites having rehabilitation habitat and other areas of habitat? It is noted that all such areas may be classified as KPA1, in which urban activities are prohibited (see Table One, Draft SPRP Guideline).
3.2.1(b)	<p>A send site must have a land use entitlement and/or a development approval which are assessed as likely to lead to significant impacts on koala habitat values.</p> <p>The term "land use entitlement" is not defined.</p> <p>It is assumed that a "land use entitlement" is an entitlement under a planning scheme or temporary local planning instrument. Does it also refer to "land use entitlements" under other planning instruments? This needs to be clarified.</p> <p>In order to allow this section to have the widest possible effect, the term "land use entitlement" needs to be defined broadly.</p>
3.2.1(c)	<p>The word "pattern" should be "patterns".</p> <p>It is unclear what is meant by the phrase "readily integrated into ... preferred land use pattern[s] identified within local government planning schemes".</p>
3.2.1(e)	<p>A further alternative is the area being purchased by the State or a local government.</p> <p>The word "menas" should be "means".</p>
3.2.1(e)(v)	The terms "protected area" and "parkland estate" need to be defined.
3.2.1(e)(vi)	This is a repetition of 3.2.1(e)(i).
3.2.1(e)(i) & (vi)	The inclusion of land in a zone with a biodiversity/conservation intent, without more, may not achieve the "long term protection" sought by this section.
3.2.1	The "Criteria for a receive site (land proposed for development)" is incorrectly numbered "3.2.1". It should be numbered "3.2.2". All references to "3.2.1" below are with respect to a receive site.
3.2.1(a) [renumber as 3.2.2(a)]	If a receive site meets the requirements in section 3.2.1(a), one wonders why this land is not already included in the Urban Footprint.
3.2.1(f) [renumber as 3.2.2(f)]	"Particular" should be "particularly".
3.2.1(h) [renumber as 3.2.2(h)]	This section requires that the receive site is "contiguous" to existing or emerging residential communities or the Urban Footprint boundary. If the word "contiguous" is interpreted to mean "touching" or "adjoining", this requirement could be very limiting. For example, land separated by a road from land in the Urban Footprint will not qualify as a receive site,

Section	Comment
	although it meets all of the other requirements.
3.2.1(i) [renumber as 3.2.2(i)]	Query whether these requirements will unnecessarily constrain the designation of a site as a receive site.
Division 3	<p>There are many uncertainties regarding the implementation of the BODA concept. These matters would need to be dealt with by way of significant legislative amendment.</p> <p>Some queries are listed below.</p> <p><u>Development Approval</u></p> <ul style="list-style-type: none"> • How will a development approval be transferred from a send site to a receive site? • Will a new development approval be issued to reflect the change to the land description, and if so, by whom? • It is likely that all of the conditions imposed on a development approval (by the assessment manager and referral agencies) relating to the send site will not be applicable to the receive site. If the conditions need to be amended, who will be responsible for this action? • If the conditions are altered, will the applicant have a right of appeal? • It is likely that new plans of development will need to be prepared. What is the process by which this occurs? • What about the rights of submitters? • What about the rights of potential submitters who may have wished to object to the development of the receive site? It is noted that there is a requirement in section 4.1(2)(b)(iii) for the planning Minister to notify the owners of all land adjoining the BDOA land about the designation of an area to be a BDOA. This is a poor substitute for the rights afforded by the SPA. • In some cases, there may not be a single development approval. It may be the case that a development has the benefit of multiple development approvals (e.g. for a material change of use, for reconfiguring a lot, for various operational works components). • How will the development approval be dealt with if it has been partly implemented (e.g. for a staged development, where some of the stages have been implemented)? • How will site specific considerations of the receive site be dealt with?

Section	Comment
	<ul style="list-style-type: none"> If it is intended to only transfer a land use entitlement (e.g. an entitlement to X lots per hectare) rather than a development approval, will the beneficiary of the transfer be required to obtain a new development approval (with all the uncertainties inherent in this process)? <p><u>Land Use Entitlement</u></p> <ul style="list-style-type: none"> How will the change to a land use entitlement be reflected in the relevant planning instruments in a timely manner? <p><u>Notification</u></p> <ul style="list-style-type: none"> Notification in the Qld Government Gazette should be supplemented by other forms of notification. <p><u>Other Matters</u></p> <ul style="list-style-type: none"> What effect will the transfer of land use entitlements and development approvals from a send site to a receive site have on contractual arrangements, financial arrangements, securities etc.
Schedule 1 – Maps	The accuracy of the mapping is crucial, as it has the potential to sterilise development. There are numerous examples of land having no habitat values being mapped inappropriately.
Schedule 3, Annexe 2, A1.3 and A1.4	The assumptions should be replaced by a requirement that the relevant information about the extent of the clearing and habitat types be provided as mandatory supporting information to a development application. This aspect can be conditioned accordingly.
Schedule 3, Annex 2, Part 1	<p>It is unclear what is meant by "Development in accordance with ... a Material Change of Use approval, Reconfiguring a Lot approval".</p> <p>Is this Part meant to apply, for example, to development applications for building work ("in accordance with" a material change of use) or operational work ("in accordance with" Reconfiguring a Lot)?</p> <p>This appears to be the intent, based on the following statement in the Draft SPRP Guidelines: "Note: The SPRP, if adopted may apply to development applications that were properly made after commencement of the instrument, but which are consistent with an existing approval." See also page 18 of the Draft SPRP Guidelines.</p> <p>Clearly, it has no application to "development" (as opposed to a development application) which is in accordance with a material change of use approval or reconfiguring a lot approval, as such "development" would have already been approved.</p> <p>Perhaps, the heading should be altered to read: "Development in</p>

Section	Comment
	accordance with a current and valid preliminary approval, <u>development applications consistent with</u> a current and valid Material Change of Use or Reconfiguration of a Lot approval, or development in an identified planning area within an area of koala habitat".
Schedule 3, Annex 2, Part 1, heading	Footnote 2 (in connection with the reference to a "current and valid preliminary approval") refers only to sections 3.1.5 and 3.1.6 of the Integrated Planning Act 1997. The corresponding sections of the SPA should also be referenced.
Schedule 3, Annex 2, "Rehabilitation of land to provide koala habitat"	<p>This specific outcome appears in a number of Parts.</p> <p>If development has occurred on the land, it is clearly not possible for the "koala habitat on the area the subject of the application" to be progressively restored and rehabilitated. In order to do so, it would be necessary to remove the development, which is clearly not intended.</p> <p>The specific outcome needs to recognise that only partial restoration and rehabilitation is possible.</p>
Schedule 3, Annex 2, Part 4	<p>This Part relates to development in a receive site.</p> <p>PS 3 makes reference to an "identified planning area". It is assumed that this reference is in error.</p>

7 Draft South East Queensland Koala Conservation State Planning Regulatory Provisions Guideline

47. The Draft SPRP Guidelines need to be reviewed against the Draft SPRPs. In many respects, the information contained in the Draft Guidelines and the Draft SPRPs do not correlate.

48. The following table contains detailed comments about the Draft SPRP Guidelines:

Section	Comment
Table One: explanation of KPAs	<p>This section identifies the methodology adopted in identifying Koala Planning Areas.</p> <p>The methodology adopted is flawed in the following respects:</p> <ul style="list-style-type: none"> It purports to link land use allocations under planning schemes with koala habitat values, when there may, in fact, be little correlation between these components. For example, the KPA1 area includes all SEQ Koala habitat values within the SEQKPA inside the urban footprint that are currently identified in the relevant local government planning schemes for conservation or open space purposes. The designation of land for conservation or open space purposes may have little, or, in fact, nothing, to do with protecting koala habitat or for koala conservation purposes; With respect to the KPA1 area, this area is said to include <u>all</u> <u>SEQ Koala habitat values</u> within the SEQKPA outside the urban footprint, excluding non-habitat and water and an area that meets a particular requirement of a KPA2 or KPA3 area. There appears to be no scientific justification for taking such an approach. It is also questionable why areas of low value rehabilitation habitat and high, medium and low value other habitat are included in the KPA1 area. To include such areas in KPA1 brings into question the basis of such classification. <p>The KPA1 area is the area of the highest restrictions. To take such a broad based approach to the designation of this area is not justified.</p>
Section Three, Development Plan, Habitat Type, page 9	<p>The Draft SPRP Guideline states: "Information on the habitat type can be determined through: ... ground truthing – where an applicant believes that the koala habitat values mapping is incorrect for the area the subject of the application, the draft State Planning Regulatory Provisions – through the definitions of relevant koala habitat types – provides the opportunity for ground-truthing the habitat type in accordance with the methodology provided in this guideline."</p> <p>A number of comments are made with respect to this matter.</p>

Section	Comment
	<p>First, the koala habitat values of land are a matter that determines the classification of land as a KPA. The classification of land as a KPA may either prohibit, limit or regulate the development that can be undertaken on the land. Given these implications (and consequential impacts on land value), the classification of land by the Department, in the absence of ground truthing, is not justifiable.</p> <p>Second, while Annex 1 may provide a methodology for ground truthing, there is no "process" for the koala habitat values of land to be altered following such investigation.</p>
Section Four, pages 15 and 17	The step by step guide (on page 15) and the flow chart (on page 17) do not recognise that Part 1 also deals with "development in accordance with a ... Material Change of Use approval [and] Reconfiguration of a Lot approval".
Section Four, page 18	<p>In the part of the table dealing with Part One, it is stated: "Where an application is consistent with a current and valid approval that was previously considered under this SPRP, it will be exempt from the requirements of the SPRP."</p> <p>The above statement is inconsistent with the other statements in the part of the table dealing with Part One, and appears to be contrary to the exemptions in the Draft SPRPs and the requirements of Schedule 3, Annex 2, Part 1 of the Draft SPRPs.</p> <p>This matter requires clarification.</p>
Section Five, Table Two, page 20	<p>The table is an incomplete summary of the actual provisions contained in Schedule 3, Annex 2 of the Draft SPRPs. The inaccuracies in the table make it of little assistance, and reliance on the table would be dangerous for applicants. Some examples follow.</p> <p>The table does not recognise that Part 1 also deals with "development in accordance with a ... Material Change of Use approval [and] Reconfiguration of a Lot approval" and "development ... in an identified planning area within an area of koala habitat".</p> <p>The column headed "Part Four – Identified Planning Areas" should, in fact, be headed "Part Four – Receive Site".</p> <p>Under the above column, and within the row headed "Vegetation Clearing Restrictions", the second and third dot points do not appear to be correct.</p> <p>Under the column headed "Part One – Consistent with Approval of Plan", and in the row headed "Koala safety fencing and measures", the second lot point does not appear to be correct.</p> <p>Under the column headed "Part Five – Areas mapped as KPA1", and in</p>

Section	Comment
	<p>the row headed "Restrictions on development types", only one of the relevant exemptions is listed.</p> <p>Under the column headed "Part Eight – Aras mapped as KPA3", and in the row headed "Vegetation clearing restrictions", the dot point does not appear to be correct.</p> <p>Under the columns headed "Part Nine – Extractive Industry in KRA" and "Part Ten – Extractive Industry outside the KRA", and in the row heading "Habitat retention requirements", it is noted that there are no specified acceptable solutions.</p>
Section Five, Table Three, pages 23-24	Many of the references to the various Parts in Schedule 3, Annex 2 are incorrect.
Section Five, Table Four, page 25	<p>In the row headed "Limits to development (applies to Part 1)" it is stated: "Where the proposed development is inconsistent with the relevant approval, the application fails this specific outcome and the application must address the next relevant part of the code that corresponds to the development type and location."</p> <p>Such an important limitation should be contained in the Draft SPRPs, not hidden away in a Guideline.</p>
Section Five, Table Four, page 31	<p>In the row headed "Vegetation clearing" it is stated that a factor that could suggest an alternative suitable site is "if the applicant owns an adjacent or nearby property that is suitable for the same development (e.g. local authorities or Queensland Government)".</p> <p>The reference in parentheses is unclear. Is this consideration limited to circumstances in which a local authority or the Queensland Government is the applicant?</p> <p>In any event, it is submitted that this is not a matter that should be a relevant consideration.</p>
Section Five, Table Four, page 35	<p>In the row dealing with "Habitat linkages", there is discussion about the requirement that where the area the subject of the application is greater than or equal to two hectares in size, and where bushland habitat and rehabilitation habitat are less than 30% of the area the subject of the application, at least 30% of these areas must be <u>free from any development footprint</u>.</p> <p>It is stated in the Draft SPRP Guideline: "NOTE: this 30 per cent may include parks, conservation area, landscaped areas, yard spaces within private property, and areas of riparian/regrowth/remnant vegetation that will be retained".</p> <p>This is incorrect as the term "development footprint" is defined in Schedule 2 of the Draft SPRP to include "the area covered by ... (b) landscaping and fencing for the building and structure, including any</p>

Section	Comment
	<p>extension".</p> <p>Therefore, the requirement for 30% of the area the subject of the application is more onerous than the Draft SPRP Guideline indicates.</p>
<p>Section Five, Table Four, page 36</p>	<p>In the row dealing with "Linear infrastructure", the following paragraph appears to be inappropriate: "Where the proposed development is inconsistent with the relevant approval, the application fails this specific outcome and the application must address the next relevant part of the code that corresponds to the development type and location."</p>

8 Draft South East Queensland Koala Conservation State Planning Policy

8.2 Effect of Draft SPP

49. The Draft Koala SPP will have the effect of requiring makers of planning instruments to place areas within the bushland habitat or high or medium rehabilitation habitat in a conservation or open space zone.
50. It will then only involve a small step to provide, at a State wide level, through the standard planning scheme provisions, for a list of development that will be prohibited within this zone. If this action is taken, land owners will have no redress, including no ability to claim compensation.
51. The above requirements, in conjunction with other provisions in the Draft SPP (discussed further below), will have the effect of "downzoning" and sterilising large areas of land, including land within the Urban Footprint.

8.3 Detailed Comments

52. The following specific comments are made:

Section	Comment
1.1	The reason for including the words "in particular within the Urban Footprint" is unclear.
Outcome sought by the State Planning Policy, page 3	Paragraph (a) repeats the introductory sentence.
Relationship to the SEQ Regional Plan, page 4	This section is intended to deal with the relationship between the Draft SPP and SPPs 1/03 and 2/07. The Draft SPP states that "nothing in this draft Planning Policy prevents the application of the requirements of these policies". The Draft SPP then states: "However, the framework established under this draft Planning Policy may require planning instruments that reflect these SPPs requirements for development otherwise planned in accordance with these SPPs". It is unclear what is meant by this sentence.
Relationship to the draft SEQ Koala Conservation State planning regulatory provisions, page 6	In light of the comprehensive measures contained in the Draft SPRPs, and the need to avoid duplication (or worse, conflict), it is unclear why it is necessary for local planning instruments to incorporate these development assessment requirements.
2.5	This section refers to the Draft SPP being limited to the assessment and decision of section 242 preliminary approvals. It is noted that there is no provision in the Draft SPP which actually addresses these matters.
2.7	The provisions of the Draft SPP should have a clear and defined area of operation. This section should therefore be deleted, as it will

Section	Comment
	unnecessarily complicate the process of making planning instruments.
Annex 3 – Development requirements	The references to the relevant parts of the Draft SPRP appear to be incorrect.
Annex 3 – Making or amending a planning instrument for – a broadhectare development area, a BDOA or an area that is a Master Planned Area under Chapter 2, Part 5B of the IPA	<p>The effect of Annex 3 is as follows:</p> <ul style="list-style-type: none"> to retain 30% of the total planning area with the SEQKPA having bushland habitat or high value or medium value habitat suitable for rehabilitation free from development; if the relevant area is less than 30% of the total planning area, then the entirety of these areas are to be free from development; <p>The above requirement may extend outside KPA1 areas, and include KPA2 areas.</p> <p>The Draft SPRP does not require that KPA1 areas remain "free from development". It requires that these areas remain free of urban activities, with some exemptions, and permits minor developments. The effect of the Draft SPP is to sterilise even more land that is sterilised by the Draft SPRP.</p> <p>The Draft SPP suggests that development requirements relevant to KPA1 apply in these areas, even though the areas may, in fact, be KPA2 areas.</p> <p>Further, the Draft SPP requires that "these areas may be identified through use of an appropriate overlay or zoning consistent with the intent of KPA1". This is not appropriate if the land is, in fact, not KPA1, but KPA2.</p> <p>The effect of Annex 3 is also to allocate areas of bushland habitat and high or medium value habitat suitable for rehabilitation (and not otherwise protected) to the open space/recreation and conservation zones. Again, the development requirements are to be those applicable to the KPA1 area. In this respect, there is very little difference between this land, and the land referred to above which is to remain "free from development".</p> <p>Other areas of bushland habitat and areas of high or medium value habitat for rehabilitation are to be allocated to other non-urban purposes or rural residential development. This appears to be a random allocation of land to zonings. It is stated that "Areas allocated for these uses may form the focus of rehabilitation strategies or conservation agreements within the planning area". It is unclear what is meant by this sentence.</p> <p>Low and high density urban activities appears to be confined to areas of low value habitat suitable for rehabilitation, other areas of importance,</p>

Section	Comment
	<p>areas of non-habitat and areas where koalas are generally not present. The Draft SPP does, however, recognise that it may also be necessary for urban development to extend outside these areas. It states: "Where development is maximised within these habitat types and does not meet the urban development needs of the planning area, development may occur in bushland or other rehabilitation types where it meets the corresponding development requirements". There are flaws in this reasoning. First, if the land is in a KPA1 area, the Draft SRPR will prohibit its use for urban activities, subject to some exceptions. Second, if the use falls within the exceptions, the development standards to be applied are those in Part 5 (Development (other than extractive industry) to the extent that it involves land within a KPA1), and not the development requirements relating to a KPA2 area as referred to in the Draft SPP.</p>
<p>Annex 3 – Making or amending a planning instrument for a Priority Koala Management Area</p>	<p>To the extent relevant, the same comments as made above apply.</p> <p>The Draft SPP states:</p> <p>"Where an area of bushland habitat, or high value or medium value habitat suitable for rehabilitation is currently zoned for such purposes [ie urban development], consideration is given to reallocation for any of the following purposes (in order of preference) –</p> <ul style="list-style-type: none"> • open space/recreation or conservation; • non-urban or rural residential; or • low density urban." <p>The above is a direction to a local government to down zone land.</p> <p>Again, it is not consistent with the Draft SPRP, and certainly inappropriate if such land is in the KPA2 area, as opposed to the KPA1 area.</p>
<p>Annex 3 – Making or amending a planning instrument for any other area</p>	<p>To the extent relevant, the same comments as made above in relation to Annex 3 apply.</p>
<p>Glossary – Draft SPP and Draft SPP Guideline</p>	<p>The definition of "Committed development" is unclear insofar as it states: "A development commitment does not include circumstances where the regional plan or planning scheme make the principle of the use subject to further planning or environmental assessment". What is "the principle of the use"?</p>

9 Mapping

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53. The Koala documents operate, in the main, on the basis of mapping. The mapping of an area as bushland habitat, rehabilitation habitat, other habitat or as being within the Koala Planning Areas or the Priority Koala Management Areas has very serious implications for land owners through the Draft SPRPs and also because of subsequent amendments to planning instruments through the Draft SPP. These implications include the prohibition of certain uses, the use of land being restricted by the assessment criteria contained in Schedule 3 of the Draft SPRPs and the effective sterilisation and devaluation of land.
54. It is understood that this mapping has been based, in part, on the work undertaken by GHD as contained in the document entitled "Department of Environment & Resource Management South East Queensland Koala Habitat Assessment and Mapping Project", dated May 2009. While this document contains an impressive body of work, Chapter 8 is perhaps the most important, where the authors clearly set out the limitations of the report. In particular, section 8.2.4 of the document concludes with the following paragraph:
- "As the primary purpose of the map was to provide an indicative depiction of koala habitat at the regional SEQ scale, if the use of the map is to have statutory effect, then detailed field assessments must accompany any planning instrument that is developed to account for any mapping boundary discrepancies or changes in koala distribution and use of habitat over time."
55. Have the detailed field assessments been undertaken before giving the mapping statutory force and effect through the most powerful planning instruments, the Draft Koala SPRPs and the Proposed Koala SPRPs? If this question is answered in the negative, it constitutes a serious misuse of the powers conferred by the planning legislation.
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