



Ref CTS 03864/10

Department of
Environment and Resource
Management

8 MAR 2010

Mr Brian Stewart
Chair
UDIA Qld
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BRISBANE QLD 4000

Dear ~~Mr Stewart~~ *Brian*

We are writing to confirm the Government's positions on matters you have raised regarding the current interim koala planning instrument and the proposed longer term koala planning instruments on which consultation has just closed.

In our meeting last week a process was agreed where matters that can be immediately clarified would be addressed via letter and that a number of more detailed fact sheets would be developed and provided to you as soon as possible to assist in informing your members. It was also recognised in our discussions that some matters that you have raised will not be able to be definitively responded to at this point but will be considered in the process of finalising the new instruments.

We will now address your specific points.

Subsequent stages of existing approvals including operational works etc should be accepted and processed by Councils while the moratorium continues, with no retrospective application of the policy.

The moratorium on the clearing of bushland habitat under the interim development controls doesn't apply to subsequent applications in accordance with an existing development approval. These applications should be accepted and processed by Councils. There is no retrospective application of the policy.

It was never intended to capture subsequent approvals. To reinforce this, the final interim development controls have included a specific clause within Division 1 of the provisions.

Inconsistent advice provided by DERM and DIP in relation to individual applications currently lodged with local governments and referral agencies needs to be rectified.

There may be a misconception around the application of the proposed SPRP to those development applications that have already been lodged. We would like to assure you that any applications that have been lodged prior to when the proposed SPRP takes effect later this year will be assessed under the regulations that were in place at the time.

It should be further clarified the proposed SPRP will not apply to the three western rural local government areas, including Lockyer Valley Regional Council and Toowoomba Regional Council.

The current moratorium will be extended beyond 28th February and the provisions will remain the same during the extension period. We know that the SPRP and SPP will not take effect as of 28th February 2010 because the Government will evaluate all submissions and then make a policy determination as to its implementation. The provision of a "not before" date would be most helpful. ie "Not before 1 April", or whatever date permits the processes of government to unfold. To the industry this is a Damoclean sword.

The process to finalise the longer term instruments will be thorough and hence they will not be put in place before 1 April 2010.

On Monday 1 March 2010, the interim development controls were extended to ensure they were in place while the proposed SPRP is being finalised. Minor changes were made to the interim arrangements to clarify when the moratorium does not apply, for example, subsequent applications in accordance with an existing development approval.

We would anticipate that existing IGAs will need to optimise koala outcomes in any development through measures such as staged vegetation clearance, koala friendly fencing and spotter catcher requirements, but until comprehensively investigated for urban development in general are not expected to be subject to the full stringency of the KPA1 requirements.

It is not the intention for the instruments to sterilize such areas from future development should they be declared.

As the KPA1 designation applies to all areas outside the existing urban footprint, where planning is done to modify the footprint, that planning would consider land use allocation appropriate to the underlying habitat values and not rely on the KPA1 designation.

The draft SPP and associated Guideline acknowledge the need to consider any amendments to the SPP/SPRP statutory mapping that may arise from such planning. It is likely that this process would be undertaken at a time appropriate to coincide with the declaration of the IGA and prior to commencement of development.

However, to be clear, until these areas have undergone the declaration process, including the consideration of koala conservation interests, any development that does not have an existing approval would be subject to the KPA1 designation and requirements in the same way as any other KPA1 area identified in the instruments.

Areas such as Flagstone with developed planning in consultation with DIP and DERM though not at state interest check stage would only be subject to Part 1 of the SPRP as with more developed structure plan areas.

Flagstone is one of the priority bring forward sites under the Queensland Housing Affordability Strategy. Logan City Council have developed strategic planning options for the Greater Flagstone area, including land within and outside the Urban Footprint under the *SEQ Regional Plan 2009 – 2031*.

While the objective of these instruments to conserve koalas is vitally important, the Queensland Government also recognises the need to accommodate continued anticipated growth, and ensuring land supply is available both in the short and long term.

The Queensland Government remains strongly committed to the objectives of the QHAS and we would like to provide an assurance that the final instruments that are put in place, having reviewed feedback received during the consultation process, will consider these needs.

The final instruments will play a role in ensuring koala habitat management is incorporated as part of the planning process.

Areas such as Rochedale that have been structure planned prior to the Regional plan provisions are exempt from the SPRP and SPP.

The final instruments will not seek additional habitat retention requirements for Rochedale beyond that already achieved by Council for biodiversity purposes, including koalas. Design measures to allow koala movement may still be required where not in conflict with planning outcomes already agreed.

It is anticipated that ground-truthing of habitat and KP definitions to correct mapping will occur and that mechanisms will be developed to enable lock-in of mapping ahead of a DA.(For example something similar to PMAV's but with integrity.)

The draft SPRP and associated guideline provides a mechanism for reassessment of the habitat classification based on site surveying and for this assessment to be used by Assessment Managers when determining requirements the development must meet. Attention is being given to providing stronger clarity in the final instruments on this issue.

KPA2 areas indicate 30% of mapped areas should be retained but such retention may be as multipurpose open space areas (subject to detailed analysis (such as that described in the previous dot point)).

This will be the subject of a fact sheet which will explain more completely the circumstances in which a developer is required to keep land set aside on their development site and what that can comprise. But I can confirm that the SPRP provides for a hierarchy where bushland habitat is the highest priority for inclusion in retained areas but that other lands, including cleared areas and partially cleared areas can also be included if there is insufficient bushland.

The instruments do not preclude such lands, including any retained bushland, being used for recreational or other purposes, subject of course to other planning considerations. The primary purpose of retaining these areas free from development is to meet the specified outcome for site design to provide opportunities for koala movement, refuge and food opportunities within and across the site.

DERM will continue to consult with the industry as Officers work through further drafts of the SPRP & SPP to improve workability and to achieve certainty of policy outcomes and minimise unintended consequences.

It is certainly intended to continue to talk to stakeholders and work through issues in the process of finalising the instruments.

We trust this advice helps provide your Institute and its members with clarity on its immediate concerns. Naturally we will be considering your detailed submission and those of individual UDIA members in finalising the instruments.

Thank you for your close interest in these reforms and the dialogue you and your members have engaged in with DIP and with DERM. Our Ministers and ourselves are all strongly committed to getting these measures right so they can make a meaningful and sustained contribution to conserving koala populations. Your interest and the feedback you have provided to date is an essential part of being able to do this.

Yours sincerely



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