


SUBJECT Intention to make Temporary Local Planning Instrument No. 2 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI)

<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Not approved <input type="checkbox"/> Noted <input type="checkbox"/> Further information required (see comments)	Signed:  Date: 21/6/21 Hon. Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning Comments:
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ACTION REQUIRED BY ASAP, due to the compelling operational issue of urgency to avoid an adverse impact on a matter of state interest.

RECOMMENDATION

It is recommended that you:

- **note** the attached proposed TLPI (**Attachment 1**)
- **note** the attached Planning Assessment Report (PAR) (**Attachment 2**) prepared by the Department of State Development, Infrastructure, Local Government and Planning (the department) and the draft Statement of Reasons (SOR) (**Attachment 3**)
- **decide** under section 27(1) of the *Planning Act 2016* (the Planning Act) you consider urgent action should be taken, being the making of the proposed TLPI, to protect or give effect to a state interest
- **decide** the proposed TLPI meets requirements in section 23(1) of the Planning Act
- **decide** for the reasons set out in the PAR and SOR that you intend to make the TLPI
- **approve the use of your electronic signature** on the attached SOR (**Attachment 3**)
- **decide** to notify the Brisbane City Council (the council) about your intention to make the proposed TLPI under section 27(2) of the Planning Act
- **approve the use of your electronic signature** on the attached Notice to Mr Colin Jensen, Chief Executive Officer of the council, copied to the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schinner, (**Attachment 4**), notifying the council of your intention to make the proposed TLPI, enclosing a copy of the proposed TLPI (**Attachment 1**) and the SOR (**Attachment 3**).

KEY ISSUES

Call in requests, section 94 direction and ongoing development

- On 10 November 2020, the Honourable Cameron Dick MP, Treasurer and former Planning Minister, received correspondence from **Refused under sec**, Managing Director, Australian Country Choice Group (ACC Group), advising of the council's approval of an application for non-industrial uses (Sport, Recreation and Community Uses, Indoor Sport and Recreation) on industrial zoned land within the Murarrie/Colmslie Major Enterprise and Industrial Area (the MEIA) of the Australia TradeCoast Regional Economic Cluster (the REC). This letter requested the approved development application be called in. This application is presently subject of an appeal in the Planning and Environment Court.

- As part of responding to the letter from [Refused un] you decided not to call in the development approval subject of his request. Further to that decision, on the 22 January 2021, you decided to direct the council to give you copies of all future non-industrial applications on industrial zoned land within the REC, under section 94 of the Planning Act. Your decision to issue the direction was gazetted on 25 January 2021. In making these decisions you considered whether the proposed development involves, or is likely to involve, economic and environmental interests of the State and whether the interest of ensuring the purpose of the Planning Act is achieved.
- Since the issuing of the section 94 direction to the council, 49 applications have been provided to you by the council. To date, nine of these applications are within the boundary of the MEIA.
- On 23 February 2021, the council approved a code assessable development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie within the MEIA. The Food and Drink Outlet will contain a bar and a 300-seat restaurant across indoor and outdoor dining areas. This application was made to the council prior to the issuing of your section 94 direction to the council.
- On 19 March 2021, the department received a request for potential State action from ACC Group's planning consultant, acting on behalf of ACC Group, to address encroachment from non-industrial development on industrial uses in the Major Industry area surrounding its facility at Colmslie.
- On 13 May 2021, Mr Damien Walker, Director-General of the department received correspondence from [Refused un] regarding a development application for retrospective building works and site preparation at 82-90 Colmslie Road, Murarrie. This retrospective approval is being sought to "facilitate the overall master plan strategy for Rivermakers Heritage Quarter" and is directly adjacent to the approved Revel Brewing Facility.
- Supporting information in the application for a retrospective approval states that the Rivermakers Heritage Quarter will "*become the centre of a vibrant food and beverage hub open to the public*". The development of a significant food and beverage hub on this site, beyond the approved Revel Brewing Co. land use, constitutes further encroachment of significant non-industrial uses on industry zoned land. The department understands that development activity on this site is ongoing.
- The department is also aware of a proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie within the MEIA. A development application for the hotel is yet to be lodged however, the proposed non-industrial use would be contrary to the intent of the council's industry zone.
- The department has also recently received several complaints about the operation of tenancies within the area known as the Rivermakers Centre, on Lytton Road at Morningside. After further investigating these complaints, departmental officers hold concerns around several non-industrial uses within the Rivermakers Centre that do not appear have the necessary approvals to operate.
- On 7 May 2021, Mr Damien Walker, wrote to Mr Colin Jensen of the council to seek the council's assistance to further investigate and ensure tenancies within this centre are operating lawfully given the significant volume of the potential non-compliance which has been identified. In an emailed reply from the council on 17 May 2021, it confirmed that two unlawful uses have been determined to be occurring in this area, with investigations ongoing into two additional tenancies and their uses.
- There are currently several development applications before the council that seek to regularise current unlawful uses. If approved these applications will have the effect of allowing non-industrial uses that continue to erode the ability for legitimate industrial uses to operate in the area.
- Recent and projected development activity in the MEIA indicates a potential intensification of non-industrial uses on industry zoned land. A current example is The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Road. This commercial mixed-use development is presently being marketed online and in print media as a homemaker and trade centre. It has been developed with retail-scale car parking capacity and already contains several non-industrial uses, while the vacant tenancies in the development are being marketed as being suitable for further non-industrial uses.

The council's response to section 94 direction and planning scheme limitations

- On 23 February 2021, Councillor Schrinner wrote to you affirming the council's support and recognition of the strategic importance of the REC. In this letter Councillor Schrinner also acknowledged that the planning scheme cannot guarantee that future unintended uses in this area will not result in reverse amenity impacts to existing industrial uses.
- On 26 March 2021, you responded to Councillor Schrinner suggesting that the council could implement a Temporary Local Planning Instrument (TLPI) to address the issues raised in Councillor Schrinner's letter. You also sought Councillor Schrinner's advice as to whether the council would be willing to propose a TLPI by Tuesday 30 March 2021. You also advised that in the absence of the council acting you would consider using your powers to introduce a Ministerial TLPI.
- As part of its monitoring of applications being sent to you under the section 94 direction, the department has been reviewing the current planning scheme provisions applicable to the assessment of non-industrial uses in the MEIA. This review is contained in the PAR (Attachment 2). The PAR identifies the existing planning scheme provisions applicable to the REC present an immediate and ongoing risk to the continuation of significant existing and new industrial uses on industry zoned land in the MEIA.
- The department considers that the current planning scheme contains assessment provisions which fail to ensure that proposed non-industrial development does not adversely impact on the intended industrial nature of the MEIA. This situation, and recent approvals given by the council, has provided an opportunity for unintended non-industrial uses to be seen to be broadly supported by the council and its planning scheme.
- Due to the planning scheme provisions, industry operators within the MEIA have stated they lack certainty and confidence to grow their businesses, citing the planning scheme as a major impediment to future investment.
- As a result, the department is of the view the planning scheme provisions are ineffective and inefficient (which conflicts with the purpose of the Planning Act), they prevent industrial uses with the MEIA from achieving the economic outcomes identified in *ShapingSEQ* and they conflict with the intent of state interests within the State Planning Policy 2017 (the SPP).
- In summary, the planning scheme provisions present an immediate and ongoing impediment to the effective regulation and assessment of development for non-industrial uses on industry zoned land within the MEIA.

Proposed TLPI

- As outlined above you sought Councillor Schrinner's advice, by Tuesday 30 March 2021, as to whether the council would be willing to propose a TLPI. You also advised that in the absence of the council acting you would consider introducing a state sponsored TLPI. It was at this time the department began preparing the proposed TLPI.
- On 30 March 2021, Councillor Adrian Schrinner responded to the 26 March 2021 letter. This letter did not confirm whether the council would, or would not, propose a TLPI to address the concerns in the Colmslie Road Industry Precinct (the CRIP).
- On 31 March 2021, council officers indicated a preference to work with officers of Planning Group to fast-track the implementation of an existing proposed amendment to the *Brisbane City Plan 2014*, Major amendment package K – Other (the proposed amendment). The department considers this action would not resolve the immediate significant risk of serious adverse economic conditions happening in the local government area due to a delay associated in finalising the proposed amendment. Additionally, if expedited, in its current form the proposed amendment would not adequately protect the ongoing viability of industrial uses within the CRIP. The department's assessment of this matter is contained in the PAR (**Attachment 2**).
- On 19 April 2021, council officers were provided with a copy of the department prepared Ministerial TLPI for the purpose of consultation and review in preparing a council TLPI.

- On 30 April 2021, Councillor Schrinner advised that the council could not support and would not be progressing a council TLPI based on the department prepared Ministerial TLPI, and indicated that council's view that a TLPI based on the proposed amendment would resolve issues facing premises in the CRIP. Councillor Schrinner's letter provided reasons for this position which the department has used to update the department prepared TLPI (**Attachment 1**).
- On 19 May 2021, a meeting occurred between you and Councillor Krista Adams, Deputy Mayor (accompanied by the Director-General and State Planner of the department as well as senior council planning staff). It was agreed in this meeting that the council would progress a council TLPI to resolve this matter, with the department assisting where possible and appropriate.
- The council has since advised that it will not be progressing a TLPI to resolve this matter.
- Given the lack of strength in existing planning scheme provisions and the decision by the council to not proceed with a council proposed TLPI, the department has prepared the proposed Ministerial TLPI (**Attachment 1**) and supporting CRIP map (**Attachment 5**) which indicates its location within the MEIA.
- The proposed TLPI seeks to ensure a balance that allows for investment in industry to occur while avoiding or mitigating potential impacts brought about by encroaching non-industrial uses. An overview of the proposed TLPI is as follows:
 - The proposed TLPI provides an interim response to protect the CRIP from encroachment by inappropriate non-industrial uses.
 - The proposed TLPI seeks to support the economic prosperity and growth of this key component of the REC.
 - The proposed TLPI recognises the importance of the CRIP as a regionally and locally significant industry area with high employment levels, containing diverse and economically significant industries and continuing to support long-standing and hard to locate industries.
 - In particular, the proposed TLPI seeks to ensure development on land in the Industry zone within the CRIP is appropriately regulated to protect the integrity the Industry zone for new and existing industry uses and to ensure future uses will not result in reverse amenity impacts to existing and future industrial uses within the CRIP.
 - New non-industrial development and intensification of existing non-industrial development is not supported on land in the Industry zone within the CRIP, unless compliant with the proposed TLPI.
- The purpose of the proposed TLPI is to:
 - continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area
 - ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
 - protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
- The proposed TLPI only applies to land in the Industry zone within the CRIP. Ancillary uses that are not identified as aspects of development in a development application will not be regulated by the TLPI.
- The department's full assessment for the proposed TLPI is contained in the PAR (**Attachment 2**) which concludes:
 - The requirements for making the TLPI under section 23 and section 27 of the Planning Act have been met.
 - The reasons on which the department recommends you make the proposed TLPI.
- Should you decide that you intend to make the proposed TLPI, you must notify the council of your intention. Following that, you can decide whether to make the proposed TLPI. A separate briefing note will be provided to you for this decision.
- The proposed TLPI is an interim response to allow the council to prepare a planning scheme amendment, which would involve consultation with the community. It is intended that the provisions of the proposed TLPI provides a solid foundation for the council to advance a future planning scheme amendment. The department will continue to work with the council to assist in the preparation of the amendment.

- In the event you decided to make the proposed TLPI, it would not apply retrospectively to development which is already approved. However, if the proposed TLPI is made, it is understood that the Planning and Environment Court could choose to give the weight it considers appropriate to the TLPI in any relevant appeals before the court, relating to a development application that was properly made before the TLPI takes effect.
- Legal Services has been consulted in the preparation of this briefing note.

RESULTS OF CONSULTATION

- On 19 April 2021, council officers were provided with the department prepared TLPI. The letter from Councillor Schrinner on 30 April 2021 is feedback relating to this consultation and was used to update the department prepared TLPI. Additionally, officers from Planning Group have met with council officers several times to refine the proposed TLPI.

RESOURCE/FINANCIAL IMPLICATIONS

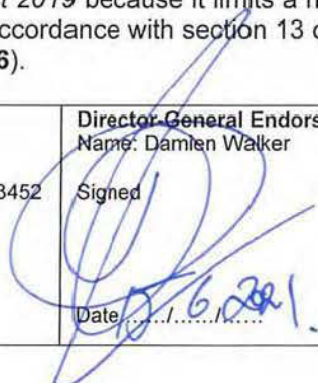
- There are no resource (e.g. staffing) or financial implications associated with this briefing note.

SENSITIVITIES/RISKS

- Failing to make a timely decision relating to the proposed TLPI carries sensitivities and risks as evidenced by the ongoing interest of key stakeholders in the CRIP and the competing interests of individual landholders and business operators who may be affected by the proposed TLPI.

HUMAN RIGHTS IMPACT ASSESSMENT

- The human rights relevant to this decision are property rights (the right to own property and not be arbitrarily deprived of it), the freedom of expression, taking part in public life and equality before the law have been considered. The department's assessment found that this decision limits property rights.
- The decision is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of that Act. Refer to the attached human rights impact assessment (**Attachment 6**).

Author Name: Shane Spargo Position: Director, System Support & Improvement Unit: Planning Group Tel/Mob No: Refused under Date: 14 June 2021	Approved by (Dir/Exec Dir) Name: Christopher Aston Position: Executive Director Branch: Policy and Statutory Planning Tel/Mob No: Refused unde Date: 14 June 2021	Approved by (SP) Name: Kerry Doss Division: Planning Group Tel/Mob No: Refused under 3452 7909 Date: 14 June 2021	Director General Endorsement Name: Damien Walker Signed  Date: 15/6/2021
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TEMPORARY LOCAL PLANNING INSTRUMENT NO. 02 OF 2021

COLMSLIE ROAD INDUSTRY PRECINCT

Brisbane City Council City Plan 2014

1. Short Title

- 1.1 This Temporary Local Planning Instrument (TLPI) may be cited as Temporary Local Planning Instrument 02/21 – Colmslie Road Industry Precinct.

2. Overview

- 2.1 This TLPI provides an interim response to protect the Colmslie Road Industry Precinct (CRIP) from encroachment by inappropriate non-industrial uses.
- 2.2 This TLPI seeks to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC).
- 2.3 This TLPI recognises the importance of the CRIP as a regionally and locally significant industry area with high employment levels, containing diverse and economically significant industries and continuing to support long-standing and hard to locate industries.
- 2.4 In particular, this TLPI seeks to ensure development on land in the Industry zone within the CRIP is appropriately regulated to protect the integrity the Industry zone for new and existing industry uses and to ensure future uses will not result in reverse amenity impacts to existing and future industrial uses within the CRIP.
- 2.5 New non-industrial development and intensification of existing non-industrial development is not supported on land in the Industry zone within the CRIP, unless compliant with the TLPI.

3. Purpose of the TLPI

- 3.1 The purpose of the TLPI is to:
 - i. Continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area.
 - ii. Ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development.

- iii. Protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3.2 To achieve this purpose the TLPI:

- i. Suspends parts of the planning scheme, for development to which this TLPI applies.
- ii. Prescribes a category of assessment for development for a material change for the uses to which this TLPI applies.
- iii. Includes assessment benchmarks, for development to which this TLPI applies.

3.3 The purpose of the TLPI will be achieved through development that is consistent with the assessment benchmarks contained in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI).

4. Duration of this TLPI

4.1 This TLPI has effect for a period of two years from the effective date.

4.2 In accordance with section 9(3)(a) of the *Planning Act 2016*, the effective date for the TLPI is **XX XXXX 2021**.

5. Terms used in this TLPI

5.1 Sensitive use is as defined in section SC1.2.3 of the planning scheme.

5.2 Where a term used in a this TLPI is not defined, the term shall have the meaning assigned to it by:

- i. the *Brisbane City Plan 2014* (the planning scheme); or
- ii. the *Planning Act 2016* where the term is not defined in the planning scheme.

5.3 To the extent of any inconsistency between this TLPI and the planning scheme, the TLPI prevails.

6. Effect of this TLPI

6.1 This TLPI is a local categorising instrument under the *Planning Act 2016* which specifies the categories of assessment and sets out assessment benchmarks for assessing development.

6.2 This TLPI applies to land in the Industry zone within the CRIP identified in Figure A.

- 6.3 This TLPI applies to assessable development for a material change of use for all uses¹ other than for:
- i. Caretaker's accommodation
 - ii. Educational establishment for trade or industry related training where not involving overnight accommodation on premises
 - iii. Emergency services
 - iv. High impact industry
 - v. Low impact industry
 - vi. Marine industry
 - vii. Medium impact industry
 - viii. Park
 - ix. Renewable energy facility
 - x. Research and technology industry
 - xi. Service industry
 - xii. Special industry
 - xiii. Telecommunications facility (where not a broadcasting station or television station)
 - xiv. Utility installation
 - xv. Warehouse.
 - xvi.
- 6.4 This TLPI does not apply to:
- i. accepted development for a material change of use
 - ii. development on land outside of the area within the CRIP identified in Figure A
 - iii. development in a zone other than the Industry zone.
- 6.5 The category of assessment for development for a material change of use to which this TLPI applies (in 6.3) is impact assessment where on land in the Industry zone identified within the CRIP in Figure A.
- 6.6 This TLPI suspends the following sections of the planning scheme when assessing a development application for development to which this TLPI applies:
- i. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO23 and AO23; and
 - ii. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO24 and AO24.
- 6.7 The assessment benchmarks applicable to a development application for development to which this TLPI applies, are set out in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI). These provisions apply in addition to the provisions in the planning scheme (unless stated otherwise).

¹ Use is defined under the *Planning Act 2016* to include an ancillary use of a premises.

Attachment A

Colmslie Road Industry Precinct Provisions

1. Compliance with the Colmslie Road Industry Precinct Provisions

- 1.1 Development that is consistent with the assessment benchmarks complies with the Colmslie Road Industry Precinct (CRIP) Provisions. Development that is inconsistent with these provisions constitutes undesirable development and is unlikely to be approved.

2. Purpose of the Colmslie Road Industry Precinct Provisions

- 2.1 The purpose of the CRIP Provisions is to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC) as a regionally and locally significant industry area, by:
- i. protecting the integrity of land in the Industry zone for new and existing industry uses that provide economic benefits to the region and local area; and
 - ii. ensuring incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development; and
 - iii. protecting the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3. Assessment benchmarks

- 3.1 The purpose of the CRIP Provisions will be achieved through the following overall outcomes:
- i. land in the Industry zone within the CRIP is used for new and existing industry uses; and
 - ii. land in the Industry zone within the CRIP is protected from use for inappropriate non-industrial activities; and
 - iii. non-industrial development that may result in reverse amenity impacts to industry uses does not locate on land in the Industry zone within the CRIP; and
 - iv. office uses do not locate on land in the Industry zone within the CRIP unless ancillary to an industrial use on the same site, such as an administrative area that directly supports the industrial use; and
 - v. indoor sport and recreation and outdoor sport and recreation uses do not locate on land in the Industry zone within the CRIP; and
 - vi. the only non-industrial uses contained on land in the Industry zone within the CRIP:

- a. are small-scale food and drink outlet or shop uses that provide business services and facilities that are necessary to support the industrial workforce within the CRIP or have a demonstrated direct nexus with industrial businesses; or
- b. do not involve a clustering of small non-industrial uses and do not locate in a catchment which is already serviced by an existing or approved non-industrial use; and
- c. are those needed to facilitate the economic growth and advancement of the industry uses within the CRIP; and
- d. do not adversely impact on the continued operation of nearby industrial uses or compromise the industrial function of the CRIP.

3.2 Development for a food and drink outlet:

- i. serves the local industrial workforce in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating or outdoor dining area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a food and drink outlet.

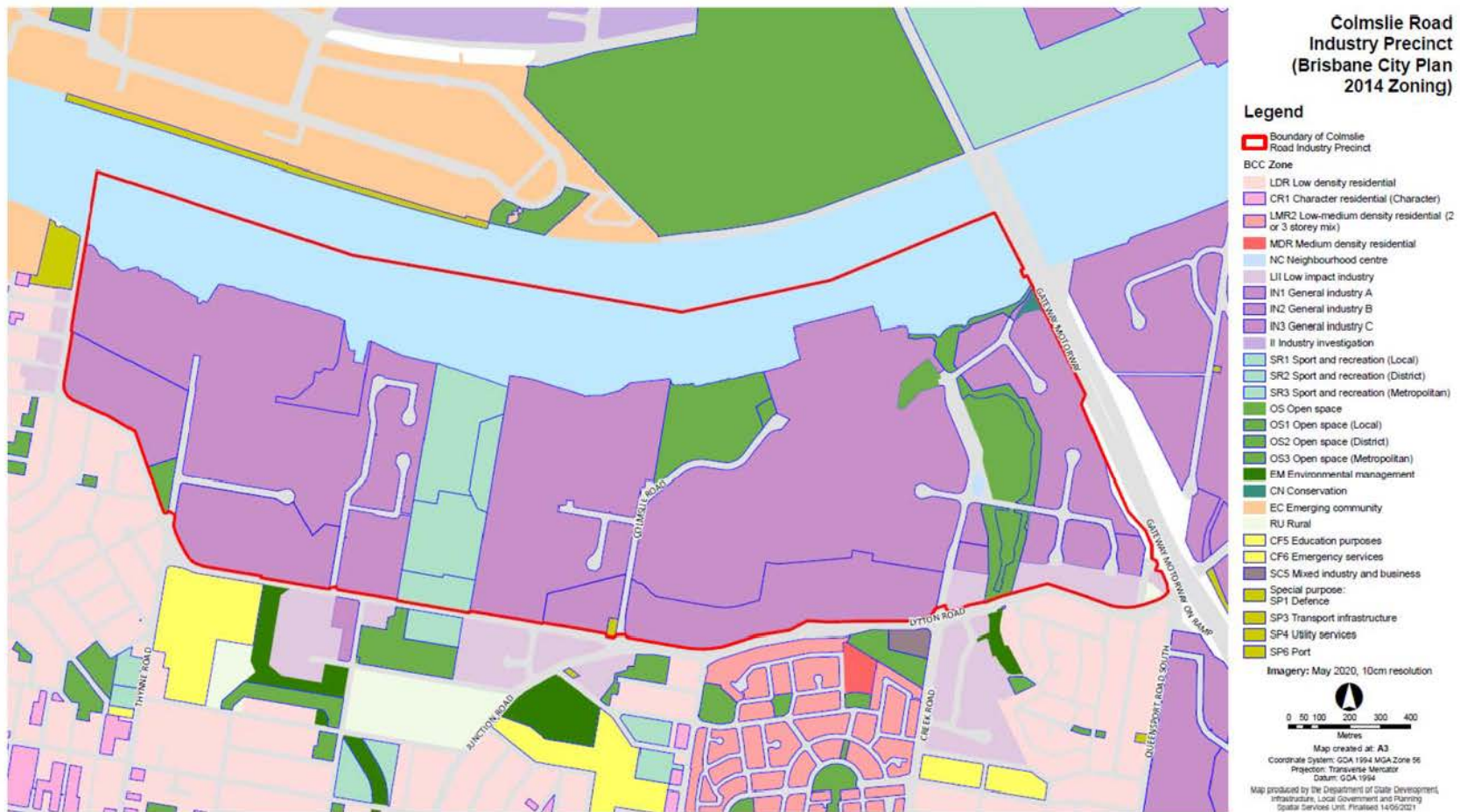
3.3 Development for a shop:

- i. serves the local industrial workforce or industry businesses in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a shop.

3.4 Development for any other use:

- i. has a clear nexus with and is necessary to support the viability of, and current and future operation of, industrial activities within the CRIP; and
- ii. does not include a sensitive use; and
- iii. specifically, does not involve an indoor sport and recreation or outdoor sport and recreation use.

Figure A – Colmslie Road Industry Precinct



ATTACHMENT 2

PLANNING ASSESSMENT REPORT

MINISTER TO TAKE URGENT ACTION AND MAKE TLPI No. 2 OF 2021 – COLMSLIE ROAD INDUSTRY PRECINCT TLPI

BRISBANE CITY COUNCIL

1. EXECUTIVE SUMMARY

Instrument	<ul style="list-style-type: none">Proposed Temporary Local Planning Instrument No. 02 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI) to the <i>Brisbane City Plan 2014</i> (the planning scheme)
Summary	<ul style="list-style-type: none">The large areas of contiguous industry zoned land along Lytton Road in Bulimba, Morningside and Murarrie (west of the Gateway Bridge) form part of the Australia TradeCoast Regional Economic Cluster (Australia TradeCoast REC), a major economic and employment precinct in the South East Queensland Regional Plan 2017 (<i>ShapingSEQ</i>).These industry zoned areas form the majority of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the REC.These industry zoned areas are strategically located within Brisbane and SEQ. The area has good access to major arterial roads, direct river access and access to the Port of Brisbane, is easily accessible by a skilled workforce and is close to significant commercial centres.Industrial landowners and operators of significant industrial uses within this area have written to the state and the council expressing a desire to invest and grow their businesses. These letters have cited encroaching non-industrial development as a constraint and significant risk to this investment and growth.On 9 November 2020, a development application for an Indoor sport and recreation facility at 500 Lytton Road and 32 Colmslie Road, Murarrie was approved by the council within the Murarrie/Colmslie MEIA.On 10 November 2020, a request was made to the Planning Minister to exercise powers under the <i>Planning Act 2016</i> (the Planning Act) to call in this development application.On 22 January 2021, this call in request was considered by the Planning Minister who decided not to give a proposed call in notice.In considering this request, the Planning Minister decided to direct Brisbane City Council (the council), in accordance with section 94 of the Planning Act, to provide him with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC. This decision was gazetted on 25 January 2021.The intent of this monitoring is to construct a fulsome picture of all relevant applications made to the council (including changes to current approvals), to provide a better understanding of the overall impact that non-industrial land uses may have on the continued operation of existing industry and to the supply of industrial land in the Australia TradeCoast REC.Since the issuing of this direction to the council, forty-nine (49) applications have been provided to the Planning Minister by the council. To date, nine (9) of these applications are within the Murarrie/Colmslie MEIA.On 23 February 2021, the council also approved a code assessable development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie. This application was made to the council prior to the issuing of the section 94 direction to the council by the Planning Minister on the 25 January 2021.This approval has been the subject of representations made to the Planning Minister on 19 March 2021, seeking greater interventions from

	<p>the state government to address non-industrial uses impacting the ongoing viability of industry uses in the industry zone.</p> <ul style="list-style-type: none"> • The Indoor sport and recreation facility application approved on the 9 November 2020 and the High impact industry (brewery) and Food and drink outlet application approved on 23 February 2021 have both been subject to legal disputes initiated by industry operators within the Murarrie/Colmslie MEIA. The action relating to the High impact industry (brewery) and Food and drink outlet application was dismissed on 4 June 2021, while the Indoor sport and recreation facility action dispute is ongoing. • On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner, wrote to the Planning Minister affirming the council's support and recognition of the strategic importance of the Australia TradeCoast REC but acknowledging that the planning scheme cannot guarantee future uses in this area will not result in reverse amenity impacts to existing industrial uses. • The council have, therefore, acknowledged that the existing planning scheme may be inadequate in protecting existing industrial uses from the impacts of encroaching non-industrial uses thereby potentially comprising the strategic importance and intent of the Australia TradeCoast REC. • As part of its monitoring of applications being sent to the Planning Minister under the section 94 direction, the department has been reviewing the current planning scheme provisions applicable to the above assessment of non-industrial uses in the Murarrie/Colmslie MEIA and the broader Australia TradeCoast REC and other relevant provisions. This review has found that the existing planning scheme provisions which intend to facilitate appropriate industrial development in the Australia TradeCoast REC, present an immediate and ongoing risk to the continuation of significant existing and new industrial uses on industry zoned land in the Murarrie/Colmslie MEIA. • The council is currently undertaking an amendment of its planning scheme under section 18 of the Planning Act – Tailored Amendment Package K (Amendment K) aims to implement the findings of the <i>Brisbane Industrial Strategy 2019</i>, and seeks to introduce additional assessment benchmarks for small-scale non-industrial uses in industrial zoned land to reduce the impact and likelihood of appreciable and cumulative encroachment of these uses into industrial zoned land. Amendment K is currently with the council to commence public consultation and will be subject to further state government review likely to commence in late 2021. • The overarching planning policy objectives relevant to the subject area are not able to be delivered through application of the current scheme on a site-by-site application basis. The cumulative effect of these existing approvals coupled with developer intent and proposed future uses will compromise the viability and integrity of the industrial zoned land in the MEIA. Limitations of the planning scheme include the assessment benchmarks contained in the Industry zone code and Industry code, and the relevant neighbourhood plan codes. • The department is of the view that immediate action is therefore required to improve these assessment benchmarks in the planning scheme to establish a more appropriate regulatory framework for the regulation of non-industrial land uses within this significant and strategically important area of industry zone land, so that the planning scheme provides certainty for existing and new industrial use businesses and jobs within the Murarrie/Colmslie MEIA. • It is proposed to urgently implement a Temporary Local Planning Instrument (the proposed TLPI) to the <i>Brisbane City Plan 2014</i> (the
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	planning scheme), over an area of predominantly industry zoned land located west of the Gateway Motorway at Murarrie, Morningside, and Bulimba in eastern Brisbane described as the Colmslie Road Industry Precinct (CRIP).
TLPI policy intent	<ul style="list-style-type: none"> • The purpose of the TLPI is to: <ul style="list-style-type: none"> ○ continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area ○ ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development ○ protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
Recommendation	<p>That:</p> <ul style="list-style-type: none"> • the Planning Minister decide to intend to make a TLPI in the form proposed and for the reasons set out in this report • notice of the Planning Minister's intention to take the action, being the making of a TLPI be given to the council as required by the Planning Act.

2. RELEVANT LEGISLATIVE PROVISIONS

In accordance with Section 23 of the Planning Act, a temporary local planning instrument (TLPI) can be made where the following matters are satisfied:

- there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; and
- the delay involved in using the process in sections 18 and 20 of the Planning Act to make or amend another local planning instrument would increase the risk; and
- the making of the TLPI would not adversely affect state interests.

Section 27 of the Planning Act allows the Planning Minister to make a TLPI where the Planning Minister considers:

- the action should be taken to protect or give effect to a state interest; and
- the action must be taken urgently.

A state interest is defined in the Planning Act as:

State interest means an interest that the Minister considers—

- affects an economic or environmental interest of the State or a part of the State; or
- affects the interest of ensuring this Act's purpose is achieved.

The purpose of the Planning Act (per section 3(1)) is:

*The purpose of this Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning (**planning**), development assessment and related matters that facilitates the achievement of ecological sustainability.*

Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- the protection of ecological processes and natural systems at local, regional, State, and wider levels; and
- economic development; and

- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

A TLPI is a local planning instrument that may suspend or otherwise affect the operation of another local planning instrument. The TLPI, however, does not amend or repeal the instrument.

3. BACKGROUND

3.1 Site location and regional context

The Colmslie Road Industry Precinct (CRIP) contains an area of predominantly industrial zoned land located west of the Gateway Motorway in Murarrie, Morningside and Bulimba, in eastern Brisbane. An aerial image of the general area and the boundary of the proposed TLPI are shown in **Figure 1** below.

The CRIP is located 15 minutes by road from the Port of Brisbane, no more than 5 minutes from access to the Gateway Motorway, 10 minutes from the Brisbane International Airport and 6 kilometres from the Brisbane CBD. It is close to an existing skilled workforce, commercial centres and supply networks, and is well serviced by transport networks, electricity, water, sewer and other necessary utilities.



Figure 1: Boundary of the proposed TLPI Area

The CRIP is part of the larger Australia TradeCoast REC that includes land located in the Brisbane suburbs of Eagle Farm, Hemmant, Lytton, Geebung, Northgate and Banyo. The Australia TradeCoast REC is conceptual in spatial representation and does not apply to specific parcels of land. The CRIP is bounded to the north by the Brisbane River, to the east by the Sir Leo Hielscher Bridges of the Gateway Motorway, to the south by Lytton Road, and to the west by Taylor Street, Bulimba.

The CRIP is partly located in areas identified on the department's State Planning Policy Interactive Mapping System (SPP IMS) as containing:

- Matters of State Environmental Significance (MSES) – wildlife habitat (endangered or vulnerable, special least concern animal, koala habitat areas – core and locally refined), regulated vegetation (category B) and high ecological significant wetlands;
- coastal management district as declared under the *Coastal Protection and Management Act 1995* (the Coastal Act).

- the Commonwealth Acetate of Lime Factory (former)) Queensland State heritage place located at 82 Colmslie Road, Morningside
- high and medium potential bushfire intensity areas
- erosion prone and medium and high storm tide inundation areas
- strategic port land as defined under the *Transport Infrastructure Act 1994* (the TIA;
- major electricity infrastructure (operated by Energex Limited) and an existing Energex substation at 512 Lytton Rd, Morningside.

Land within the CRIP is predominantly contained within the Industry zone of the planning scheme. Land to the south of Lytton Road is within the Low impact industry, Open space and Low-density residential zones. The CRIP primarily contains land uses defined as High, Medium and Low impact industry. Development in the CRIP is ongoing with several lots currently unimproved or underutilised. (refer to **Figure 2** below for the current zoning).

Existing businesses within the CRIP include Queensland Bulk Terminals (subsidiary of Wilmar Trading Australia Pty Ltd), Australian Country Choice Group Abattoir, Bidfood Food Wholesaler and Distributor, and Raptis Seafood Market.

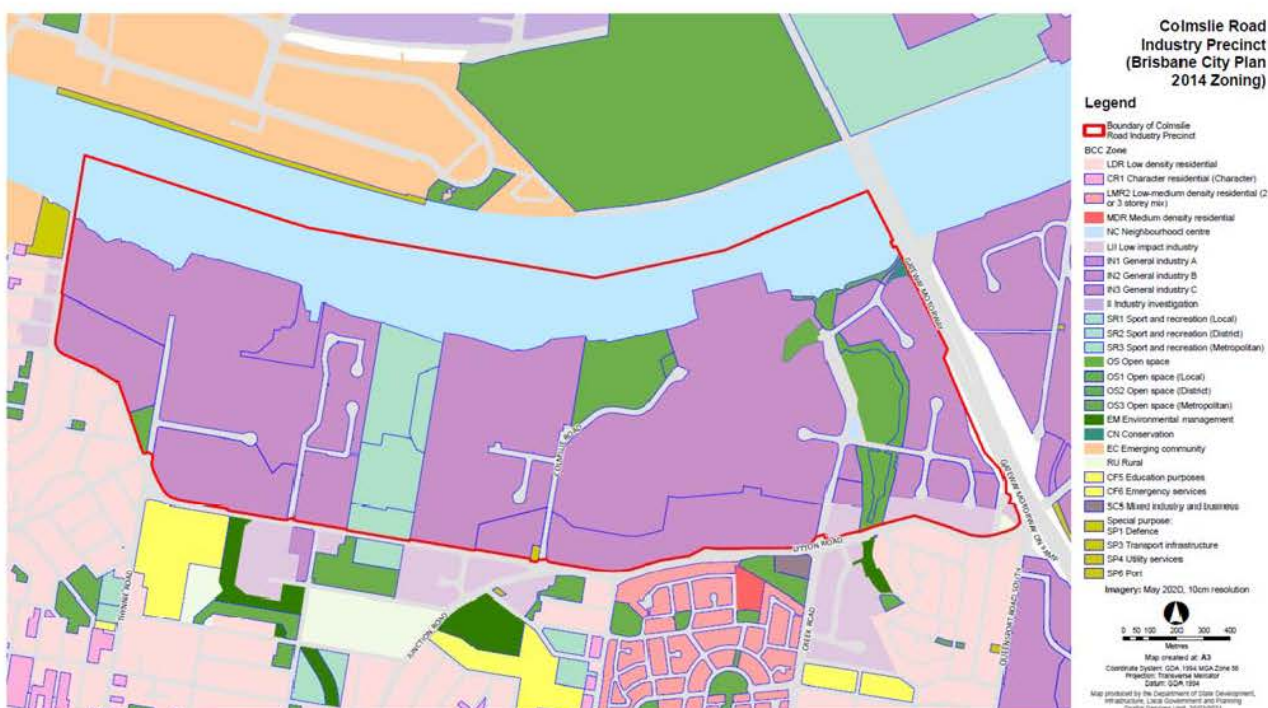


Figure 2: Current planning scheme zoning and boundary of the proposed TLPI Area

3.2 History

The Australia TradeCoast REC represents one of SEQ's most significant existing industrial agglomerations. The Australia TradeCoast REC contains specialised sectors including aviation and aerospace, food and innovative manufacturing, shipping and marine, transport and logistics, and tourism.

This REC is supported by major supply chain networks that service not only the region but the entire state, interstate and international markets.

The CRIP is part of the Australia TradeCoast Regional Economic Cluster (REC), a major economic and employment precinct in *ShapingSEQ*. This REC contains more than 1410 employing businesses accounting for approximately 8% of Brisbane's total employment and generating more than \$15 billion of exports in the 2016-17 financial year¹.

¹ Brisbane City Council website: <https://www.brisbane.qld.gov.au/about-council/governance-and-strategy/business-in-brisbane/growing-brisbanes-economy/opportunity-brisbane/australia-trade-coast>

The CRIP is part of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the REC. The CRIP is strategically located within the REC and has good access to major roads, ports, a skilled workforce, and commercial centres. The extent of the Australia TradeCoast REC relevant to the CRIP area in Murarrie/Colmslie is shown in **Figure 3** below.

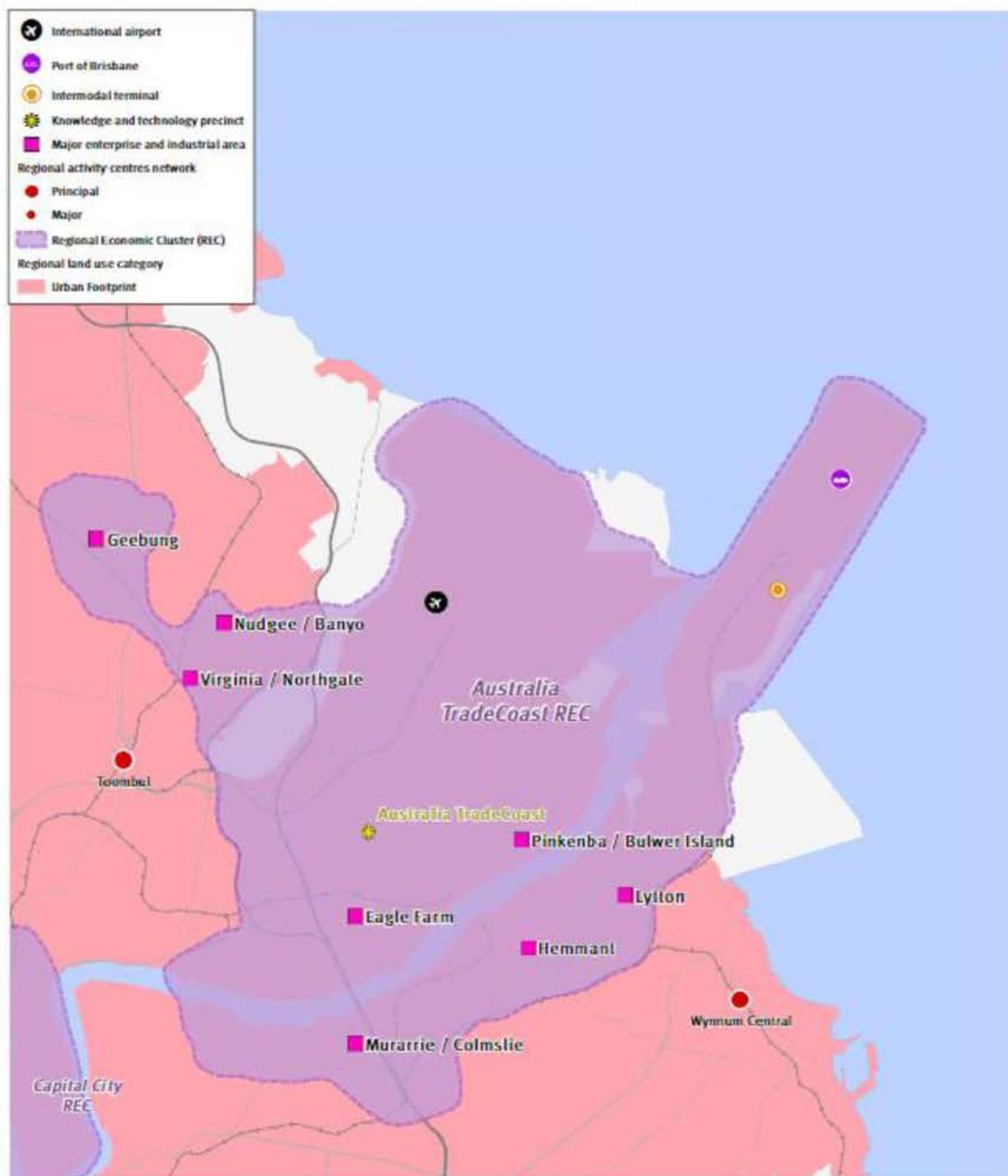


Figure 3: Extent of the Australia TradeCoast REC

Existing significant industrial uses in the CRIP are well established and hard to relocate. Hard-to-locate industries typically require locations which are well separated from sensitive land uses due to their potential for significant impacts. These industries have the potential to cause nuisance to communities through environmental emissions such as air, odour and noise pollution or risks to the health and safety of communities. These characteristics make High and medium impact industries difficult or hard-to-locate. The CRIP area contains zones intended to accommodate hard-to-locate industries. For example, the Australia Country Choice (ACC) occupies a site that has been utilised as an abattoir since the 1930s. The company has informed the department that it has undertaken more than \$200 million in upgrades and efficiency improvements to its operations since relocating to this site in 2000.

Established industry operators within the CRIP have written to the state and the council expressing a desire to invest and grow their businesses. These operators have cited encroaching non-industrial development as a constraint to further investment and growth and which compromises the intended function of the Murarrie/Colmslie MEIA.

3.2.1 10 November 2020 – Call in request

On 29 April 2020, Rivermakers Wellness and Research Centre Pty Ltd made a development application for a Material Change of Use for Indoor Sport and Recreation and Health Care Facility at 32 Colmslie Road and 500 Lytton Road, Morningside.

The proposed Indoor sport and recreation facility (gym) is on industrial-zoned land adjacent to the ACC abattoir on Colmslie Road which is one of the largest meat processing facilities in Queensland. ACC's abattoir was subject to a previous ministerial call in when locating to the site on 29 February 2000.

On 9 November 2020, the council approved the subject application despite apparent conflicts with the planning scheme including the appropriateness of the use in the location and the protection of the ongoing viability of industrial areas. This approval is for a development permit for material change of use for indoor sport and recreation, being a non-industrial use on land in the Industry zone within the Australia TradeCoast REC. The approval contained conditions which intend to limit the use of the premises to operating for two years. This approval is currently the subject of two Planning and Environment Court appeals [3451/20] and [23/21].

On 10 November 2020, a request was made by ACC to the former Planning Minister, the Honourable Cameron Dick MP, to call in the development application.

ACC raised concerns that the approved development will have a detrimental impact on the operation of the abattoir as well as the operation of other industries in the major industry area. Furthermore, ACC expressed concern about ongoing urban development being approved by the council and encroaching on its existing facility. ACC cite these concerns as a reason to reconsider the further injection of capital and provision of infrastructure at this facility.

On 22 January 2021, the Planning Minister decided not to exercise his power to call in the development application.

3.2.2 Section 94 direction

In considering the above call in request the Planning Minister noted council's approval and the assessment material relating to the application, as well as the subsequent appeals, identified significant planning issues relating to matters of economic and environmental importance to the State and matters relating to ensuring the purpose of the Planning Act is achieved.

On 22 January 2021, the Planning Minister also decided to direct the council, in accordance with section 94 of the Planning Act, to provide the Planning Minister with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC for 12 months.

The intent of this monitoring is to construct a more fulsome picture of all relevant applications made to the council in this area, to inform the Planning Minister of the overall impact that applications of this type may have on the outcomes sought to be achieved for industry zoned land within the REC, and to allow the Planning Minister to take further advice on the applications received under the direction.

In issuing the section 94 direction, the Planning Minister considered that:

- the continued operation of appropriately established industrial development is of importance to the state, as reflected in the State Planning Policy 2017 (the SPP) and *ShapingSEQ*; and
- protecting core components including MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.

The Planning Minister in making this decision also considered the council assessment report which recognised conflicts with several assessment benchmarks within the planning scheme. Council determined these conflicts were not significant enough to warrant refusal of the application. The

council assessment report identifies the development application conflicted with the overall outcomes and the purpose of both the Industry zone and Indoor sport and recreation zone codes.

Since issuing this direction to the council, forty-nine (49) applications have been provided to the Planning Minister by the council. To date, nine (9) of these applications are located in the CRIP.

3.3.3 Subsequent non-industrial development approvals

On 23 February 2021, the council approved a development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie within the CRIP.

Council's approval has been the subject of representations made to the Planning Minister on 19 March 2021, seeking greater interventions from the State government to address non-industrial uses impacting the on-going viability of industry uses in the industry zone. Suggested interventions within this representation included that the Planning Minister use powers under the Planning Act to call in the above development application or direct the council to introduce a TLPI.

On 31 March 2021, the Planning Minister decided not to call in the above application.

The High impact industry (brewery) and Food and drink outlet approval was subject to legal dispute initiated by landowners and industry operators within the CRIP. This matter related to the correct categorisation and scale of the use and its consequent category of development and assessment on this premises, rather than the appropriateness of the non-industrial use within the industry area. This matter was resolved on 4 June 2021 by the Planning and Environment Court by dismissing the action.

The department is aware of other proponents who are considering establishing non-industrial uses on industrial zoned land within the CRIP such as:

- published media reports promoting a proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie
- future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working with BMI to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.

Recent and projected development activity in the CRIP demonstrates an intensification of non-industrial uses on industry zoned land. This situation, and recent approvals given by the council, has provided an opportunity for unintended non-industrial uses to be seen to be broadly supported by the council and its planning scheme.

3.3.4 Response to local government plan-making actions and local government consultation

On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner wrote to the Planning Minister seeking support in protecting the long-term viability of the ACC facility. In this letter council recognised the limitations of the current planning scheme in appropriately protecting industrial land and industrial land uses from incompatible development and flagged the council's intention to investigate options to amend this deficiency (see below excerpt):

"Council cannot guarantee that future uses developed in the adjoining area will not result in reverse amenity impacts and we are investigating further measures to protect the facility."

Council have acknowledged that the existing planning scheme is inadequate in protecting existing industrial uses from the impacts of encroaching non-industrial uses thereby potentially comprising the strategic importance and intent of the Australia TradeCoast REC.

The council have also undertaken work to progress planning scheme amendments that relate to resolving this above issue across the broader local government area and deliver implementation actions that have been identified in council's *Brisbane Industrial Strategy 2019*. See section 4.2 below for further details about these proposed amendments.

3.3.4.1 Council proposed TLPI

On 26 March 2021, the Planning Minister responded to Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner suggesting that the council could implement a TLPI to address the issues raised in the 23 February 2021 letter. This correspondence also advised that in the absence of the council taking action the Planning Minister would consider introducing a state sponsored TLPI.

On 30 March 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner responded to the 26 March 2021 letter. The 30 March 2021, letter did not confirm whether the council would or would not propose a TLPI to address the concerns in the CRIP.

On 31 March 2021, council officers indicated a preference to work with officers of Planning Group to fast-track the implementation of an existing proposed amendment to the *Brisbane City Plan 2014*, Major amendment package K – Other (Amendment K). The department considers this action would not resolve the immediate significant risk of serious adverse economic conditions happening in the local government area due to a delay associated in finalising the proposed amendment. Additionally, if expedited, in its current form the proposed amendment would not adequately protect the ongoing viability of industrial uses within the CRIP. The department's consideration and explanation of Amendment K as it relates to the CRIP is contained in section 4.2 of this report.

On 19 April 2021, council officers were provided with a copy of the department prepared TLPI for the purpose of consultation and review.

On 30 April 2021, Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner advised that the council cannot support and would not be progressing the department prepared TLPI and indicated council would prefer to explore a TLPI based on Amendment K as an appropriate way of resolving issues facing premises in the CRIP. Councillor Schrinner's letter provided reasons for this position which the department has used to update the department prepared TLPI.

On 19 May 2021, a meeting occurred between the Deputy Premier and the Deputy Mayor (accompanied by the Director-General and State Planner, DSDILGP and the senior council planning officers). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.

The Council has since advised that it will not be progressing a TLPI to resolve this matter

3.3.4.2 Compliance

On 13 May 2021, Mr Damien Walker, Director-General of the department received correspondence from Refused under section of ACC regarding a development application for retrospective building works and site preparation at 82-90 Colmslie Road, Murarrie. This retrospective approval is being sought to "facilitate the overall master plan strategy for Rivermakers Heritage Quarter" and is directly adjacent to the approved Revel Brewing Facility.

The Rivermakers Heritage Quarter is understood to comprise up to 10 existing buildings including the Queensland heritage place known as the Commonwealth Acetate of Lime Factory (former). It is understood that the Rivermakers Heritage Quarter is to become the centre of a "vibrant food and beverage hub" open to the public. The development of a significant food and beverage hub on this site, beyond the approved Revel Brewing Co. land use, constitutes further encroachment of significant non-industrial uses on industry zoned land. Development activity on this site is ongoing.

The department has also recently received several complaints about the operation of tenancies within the area known as the Rivermakers Centre at Morningside. After further investigating these complaints, departmental officers hold concerns around several non-industrial uses within the Rivermakers Centre that do not appear have the necessary approvals to operate.

On 7 May 2021, Mr Damien Walker Director-General of the department wrote to Mr Colin Jensen, Chief Executive Officer of the council to seek council's assistance to further investigate and ensure tenancies within this centre are operating lawfully given the significant volume of the potential non-compliance which has been identified. In an emailed reply from the council on 17 May 2021, it confirmed that two unlawful uses have been determined to be occurring in this area, with investigations ongoing into two additional tenancies and their uses.

4. BRISBANE CITY COUNCIL CITY PLAN 2014

4.1 Current planning scheme considerations

The planning scheme commenced on 30 June 2014 under the now repealed *Sustainable Planning Act 2009*. The planning scheme was aligned with the Planning Act in July 2017.

Within the strategic framework of the planning scheme, the CRIP is located within the Major Industry Area. The intent of this Major Industry Area is to:

- protect existing uses from encroachment of non-compatible uses whilst promoting the colocation of business and administrative functions where directly related to the principal industrial use of the premises; and
- provide the principal regional activity centres for the city and provide high levels of employment though encouraging and accommodating economic activity.

Most of the land within the CRIP is contained within the Industry zone (General Industry A, B and C precincts) of the *Brisbane City Plan 2014*.

- The overall outcomes for the location of development and uses within the Industry zone include that '*Development protects the viability of existing and future industry by excluding incompatible development*'.
- The intent of the General Industry A zone precinct is for development to provide '*for low impact industry, service industry and warehouse uses*' and to include '*a broad range of industry that is compatible with adjacent residential areas.*'
- The intent of the General Industry B zone precinct is for development to provide '*for low impact industry and medium impact industry.*'
- The intent of the General Industry C zone precinct is for development to provide '*for a range of high impact industry uses and compatible medium impact industry uses.*'

Unforeseen non-industrial uses within the above zone precincts are generally impact assessable within the planning scheme and will require assessment against the entirety of the scheme.

Specifically, the CRIP is located within and contains areas defined as the:

- River Gateway Neighbourhood Plan Area – NPP 005 – Industry
- Bulimba Districts Neighbourhood Plan Area.

The River Gateway and Bulimba Districts neighbourhood plans prescribe additional assessment benchmarks for assessable development in these areas. These neighbourhood plans do not change the category of assessment applicable to non-industrial development within the CRIP.

Refer to **Figure 3** above for the current planning scheme zoning map.

Levels of assessment and most assessment benchmarks relating to development that is a material change of use are mostly contained within the relevant zone and development codes. The relevant zone and development codes include:

- 6.2.5.2 – Industry Zone Code
- 7.2.18.3 – River Gateway Neighbourhood Plan Code
- 7.2.2.4 – Bulimba District Neighbourhood Plan Code
- 9.3.12 – Industry Code.

4.2 Limitations of the planning scheme

The current planning scheme construct (including the specific provisions referred to below) fails to ensure that the intended industrial intent of the CRIP is delivered through the development assessment process and has created a circumstance where unintended non-industrial uses are occurring in this area.

The overarching policy objectives of the area identified within the CRIP as demonstrated in the overall outcomes for the Industry zone that covers the majority of land in the CRIP, are not able to be delivered through application of the more detailed provisions within the current planning scheme on a site-by-site application basis. The cumulative effect of existing approvals coupled with further projected encroachment (e.g. the imminent BrewDog development application and further Rivermakers intensification) should development proposals continue to be subject to the deficient provisions of the planning scheme will compromise the viability and integrity of the industrial zoned land in the CRIP.

4.2.1 Protecting industrial land from inappropriate non-industrial uses

The overarching intent for the CRIP is to protect existing uses and industrial land from encroachment of incompatible and inappropriate non-industrial uses.

To achieve a similar intent to the CRIP the planning scheme must provide applicants and assessment managers with clarity as to what uses are anticipated or encouraged to occur within the CRIP. The planning scheme currently fails to do this. Key failings are associated with the following sections of the planning scheme:

- 5.5.16 – Industry zone – Categories of development and assessment – Material change of use – Industry zone Table of Assessment
- 5.9.58.A – Categories of development and assessment – Material change of use – River gateway neighbourhood plan
- 6.2.5.2 – Industry zone code
- 7.2.18.3 – River gateway neighbourhood plan code
- 9.3.12 – Industry code

Categories of development and assessment for non-industrial uses, such as Food and drink outlet and Shop within the CRIP, are code assessable where meeting gross floor area requirements. The intent of these prescribed gross floor areas is to limit the scale of intended uses. However, outdoor dining areas are not included within the calculation of gross floor area and may significantly increase the anticipated scale of Food and drink outlet and Shop uses as demonstrated by recent and proposed development activity. Continued provision of outdoor dining areas has the effect of increased reverse amenity impacts on established industrial uses in this area whilst cumulatively undermining the existing and intended role and function of the area as a major industry precinct.

The River gateway neighbourhood plan additionally does not increase levels of assessment for incompatible non-industrial uses. The department considers levels of assessment for non-industrial uses within the CRIP must be supported by objective assessment benchmarks to ensure these uses do not compromise the industrial intent of the area.

Relevant assessment benchmarks within the planning scheme are not adequate to ensure these uses do not compromise the industrial intent of the area. For example, overall outcome (e) of 6.2.5.2 Industry zone code that *'development protects the viability of existing and future industry by excluding incompatible development'* does not provide sufficient detail to deliver this intent as it fails to specify what 'incompatible development' is or to establish grounds on which to determine if development is incompatible. This is consistent for all overall outcomes of this zone code relevant to non-industrial development.

Additionally, the River gateway neighbourhood plan code does not contain assessment benchmarks relevant to non-industrial uses within the CRIP and therefore does not provide sufficient fine grain planning to ensure the ongoing industrial viability of this state-significant industry area.

9.3.12 Industry code provides assessment benchmarks relevant to Food and drink outlet and Shop uses however these are deficient for the reasons contained at 4.2.2 below. Additionally, this code does not provide assessment benchmarks relevant to other potentially incompatible non-industrial development, such as Indoor sport and recreation. Assessment of these uses currently relies on the overall outcomes contained within 6.2.5.2 Industry zone code which as discussed above do not provide sufficient clarity to applicants as to the intent for development in this area.

4.2.2 Cumulative impact of multiple small-scale encroaching inappropriate non-industrial uses

The intent for the CRIP includes to provide for the number and scale of non-industrial uses needed to service the functioning of businesses and workforce within the area.

Overall outcome (g) of 6.2.5.2 Industry zone code that '*Development for a use that is ancillary to an industrial use on the same site, such as an office function, or small-scale shop or food and drink outlet that directly supports the industry and workers may be accommodated*' does not clearly address the cumulative or incremental impact of those non-industrial uses and provides no guidance about how to assess or consider the need for these uses.

PO24 of 9.3.12 Industry code provides for consideration of the scale of Food and drink outlet and Shop uses on an application by application basis. This does not provide for the assessment of the cumulative effect of multiple non-industrial facilities within the industry area.

The current scheme provisions do not prevent the intensification of non-industrial uses, particularly for a food and drink outlet use or shop use that is not specifically servicing the industrial workforce in the CRIP being able to be approved as code assessable development. The planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses.

The Purpose statement of 9.3.12 Industry code does not include any overall outcomes relating to Food and drink outlet or Shop uses which this code attempts to address wholly within PO and AO provisions.

PO23 of 9.3.12 Industry code focusses exclusively on the effect of development that is a Food and drink outlet or Shop has on the planning scheme's centre policy (e.g. centres network) and does not consider the effect of these development types on the industry policy and industrial land supply.

4.2.3 Role of the CRIP as part of the Major Industry Area

The CRIP performs a significant role as part of the planning scheme's Major Industry Area. The River Gateway Neighbourhood Plan Code identifies the CRIP as a specific precinct - *Industry precinct (NPP-005)*. The overall outcomes of 7.2.18.3 River Gateway Neighbourhood Plan Code do not have regard to the economic significance of the precinct. There are no specific assessment benchmarks which are applicable to development in this precinct.

These issues have been identified by the council in correspondence and are further highlighted in recent non-industrial use approvals in this area. The proposed TLPI will improve the efficiency, integration and accountability of the land use provisions for development in this area.

Proposed amendments to the *Brisbane City Plan 2014* (Amendment K)

The council are currently progressing an amendment package (Amendment K) which includes amendments that seek to deliver actions relating to the implementation of the *Brisbane Industrial Strategy 2019*. The council have identified the purpose of this amendment is to better support the industrial economy and jobs, and:

- to enhance the role of Brisbane's industrial precincts by emphasising their role in meeting evolving industrial demand, facilitate business and infrastructure investment and services needed to attract a skilled workforce

- to provide appropriate non-industrial uses that meet the needs of workers and enhance the function of areas where low-impact industry is supported
- to support large format, high impact logistics/distribution uses where they meet appropriate thresholds in the General industry C zone precinct of the Industry zone within the Australia TradeCoast and South West Industrial Gateway Major Industry Areas.

The following amendments are proposed to integrate the above actions:

- Part 3 – Strengthen strategic outcomes to ensure incompatible uses do not encroach on industrial land and to clarify what uses may be considered as appropriate supporting uses.
- Part 5 – Clarify and lower levels of assessment for:
 - o Food and drink outlet and Shop (<250m² GFA), Indoor sport and recreation (<400m² GFA) and Educational establishment (where for trade related industry training) uses within the Low impact industry zone and Industry zone (General industry A).
 - o Warehouse (where for logistics or distribution centre) where in the Industry zone (General industry C).
 - o Research and technology industry where in the mixed use zone.
- Part 6 and Part 9 – addition of new and amendment of existing assessment benchmarks to support the above lowering of levels of assessment and to provide outcomes for appropriate non-industrial uses in industrial areas to ensure encroachment does not compromise the viability of industrial zoned land. For example, an assessment benchmark (acceptable outcome) has been added to quantify separation distances between non-industrial uses in industrial zoned land.
- Schedule 1 – addition of 'distribution centre', 'logistics warehouse' and 'wholesale trade' as example uses under the use type Warehouse and removal of Educational establishment (where for trade or industry related training and not involving overnight accommodation) from the sensitive use administration definition to ensure this use does not compromise industrial land through buffer requirements.

Notably, Amendment K seeks to introduce additional assessment benchmarks for small-scale non-industrial uses in industrial zoned land to reduce the impact and likelihood of cumulative encroachment of these uses into industrial zoned land. Certain provisions from Amendment K have been integrated into the proposed TLPI following council feedback received on 30 April 2021 for example the use Educational establishment (for trade or industry related training where not involving overnight accommodation on premises) has been excluded from being subject to the TLPI as this has been recognized as a suitable activity in this area.

The Planning Minister approved the state interest review and provided approval to commence public consultation of Amendment K. Council have been able to commence consultation of this amendment since January 2021 but have yet to do so. It is, therefore, not likely this amendment process will be completed and adopted by the council within the next six months. The proposed TLPI, as a temporary measure, will ensure council have adequate time to consider planning policy objectives for this area and progress potential refinements to amendment K prior to adoption of this instrument. These refinements can therefore occur whilst industrial land and uses within the CRIP are protected by this temporary measure.

5. STATE INTERESTS

A state interest is defined as an interest that the Planning Minister considers:

- affects an economic or environmental interest of the state or a part of the state or
- affects the interest of ensuring that the Planning Act's purpose is achieved.

Under section 8(2) of the Planning Act, the SPP and *ShapingSEQ* are state planning instruments which are made by the Minister to 'protect or give effect to state interests'.

5.1. The Planning Act

The purpose of the Planning Act is to '*establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability*'.

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, State, and wider levels; and*
- (b) economic development; and*
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.*

5.2. State Planning Policy (SPP)

The SPP is a key component of Queensland's planning system which expresses the state's interests in land use planning and development. The SPP guiding principles are intended to complement and support the provisions for plan making and development assessment outlined in the Planning Act and the SPP. The SPP guiding principles seek to ensure a planning system that is: outcomes-focused, integrated, efficient, positive and accountable.

The following guiding principles, under the overarching principle of 'Positive', are particularly relevant to the CRIP provisions:

- *Plans are written using clear, concise and positive language to describe what outcomes are sought, required or encouraged in a particular location, rather than what is to be avoided, prevented or discouraged.*
- *Plans adopt a performance-based approach to development assessment to allow for innovation and flexibility in how development in a local area can be achieved.*
- *Plans are drafted to ensure that development is assessed on its individual merits².*

The SPP identifies the 'Development and construction' state interest (within the theme of 'planning for economic growth', that *land uses are consistent with the purposes of the zone*³. The purpose of the Industry zone (as identified in the Planning Regulation and articulated in the planning scheme) that applies to most of the CRIP area is:

- *The purpose of the industry zone is to provide for (a) a variety of industry activities; and (b) other uses and activities that - (i) support industry activities; and (ii) do not compromise the future use of premises for industry activities.'*

The SPP establishes that land uses consistent with the purpose of the zone will:

- facilitate the availability of well-located and well serviced land for business and industry that has access to suitable infrastructure networks
- achieve an efficient and effective planning system that supports economic growth by providing certainty to investors and investment can be encouraged with will enable local economic opportunities to be realised.

The SPP identifies the state interest in 'Emissions and hazardous activities' (within the theme of planning for 'safety and resilience to hazards'). The SPP provides that the State interest is to 'ensure the operation of appropriately established industrial development ...'. The SPP also establishes that existing and approved medium impact and high impact industries are to be protected from encroachment by development that would compromise the ability of the land use to function safely and effectively. This is to be achieved by ensuring development for an incompatible use does not encroach on land that is affected by the adverse impacts of hazardous and hard-to-locate land uses⁴.

5.3. ShapingSEQ

ShapingSEQ is a more detailed expression of the SPP and helps to contextualise the SPP for the SEQ region. The key goal in *ShapingSEQ* that are relevant to the CRIP are Goal 2: 'Prosper'. This goal is supported by elements and strategies that set out the specific outcomes desired for the region

² Page 15, SPP, 3 July 2017

³ Page 32, SPP, 3 July 2017

⁴ Page 49, SPP, 3 July 2017

and the strategies to achieve them. *ShapingSEQ* was released in 2017 after the planning scheme commenced in 2014 and *ShapingSEQ* has not yet been reflected in the planning scheme.

The protection of industrial land proposed particularly in the Australia TradeCoast REC will ensure sub-regional outcomes related to trade and industry preservation and expansion and related jobs growth are realised.

5.3.1. Goal 2: Prosper

The following elements of Prosper are of relevance to the CRIP:

- *Element 1: High-performing outward-focused economy*

ShapingSEQ states that *SEQ responds to the transitioning economy by focusing on export-oriented and business-to business transactions that drive productivity and growth⁵,...*

One of the relevant strategies in considering how the CRIP can continue to contribute to a high-performing outward-focused economy is Strategy 5: *Plan for and support continued growth in population-serving employment and traditional economic industries.*

- *Element 2: RECs*

ShapingSEQ states that *RECs will leverage traditional strengths and competitive advantages to advance the economy, strengthen our global and national relationships, and embrace emerging technology and new opportunities⁶.*

RECs are areas that contain a concentration of significant economic activity and employment, and support groupings of MEIAs, knowledge and technology precincts and regional activity centres.

The CRIP is located within the Australia TradeCoast REC MEIA (refer to map 3a Prosper – Economic areas on page 56 of *ShapingSEQ*). Representing one of SEQ's most significant existing industrial agglomerations, the Australia TradeCoast REC includes the Murarrie/Colmslie MEIA ('M5'), recognised as part of the port-related cluster which features high levels of specialisation in priority sectors of manufacturing, mining services, transport and logistics, and tourism.

- *Element 5: MEIAs*

ShapingSEQ states that *MEIAs, including their supply chain networks, grow and enhance national and global trade⁷.*

MEIAs accommodate medium and high-impact industries and other employment uses associated with, or with access to, state transport infrastructure. These areas are major drivers of economic growth. They are either significant in size or have the potential to expand to provide for industry and business activity clusters of regional and state significance⁸.

The CRIP is recognised as a major driver of economic growth in SEQ by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*. The CRIP is strategically located in the region; it has good access to enabling transport infrastructure and services supporting high levels of specialisation in priority sectors of manufacturing, mining services, transport and logistics, and tourism.

- *Element 7: Special uses*

ShapingSEQ states that *SEQ accommodates a range of special uses, including activities that are difficult to locate, and that support regional needs and economic growth⁹.*

⁵ Page 52, *ShapingSEQ*, July 2017

⁶ Page 50, *ShapingSEQ*, July 2017

⁷ Page 53, *ShapingSEQ*, July 2017

⁸ Page 58, *ShapingSEQ*, July 2017

⁹ Page 53, *ShapingSEQ*, July 2017

ShapingSEQ includes strategies to protect special uses from encroachment by incompatible development strategy.

6. PROPOSED TLPI – STATUTORY ASSESSMENT

Section 27 of the Planning Act allows the Planning Minister to make a TLPI where the Planning Minister considers:

- the action should be taken to protect or give effect to a state interest and
- the action must be taken urgently.

The department has prepared the proposed TLPI (**Attachment 1**).

Further to section 2 of this report, this section provides an assessment of the proposed TLPI against section 23 and section 27 of the Planning Act. A summary of the proposed TLPI provisions is also provided below.

6.1. Summary of proposed TLPI provisions

Overview

The proposed TLPI applies to assessable development for a material change of use, on land in the Industry zone within the CRIP¹⁰ identified in Figure A of the TLPI, for all uses ¹¹other than for:

- Caretaker's accommodation
- Emergency services
- High impact industry
- Low impact industry
- Marine industry
- Medium impact industry
- Park
- Renewable energy facility
- Research and technology industry
- Service industry
- Special industry
- Telecommunications facility (where not a broadcasting station or television station)
- Utility installation
- Warehouse.
- Educational establishment for trade or industry related training where not involving overnight accommodation on premises

These uses are specifically identified as excluded from the provisions of the proposed TLPI as they are anticipated in the relevant industry zones of the CRIP and are appropriately regulated under the planning scheme.

The proposed TLPI does not apply to:

- accepted development for a material change of use
- development on land outside of the area within the CRIP identified in Figure A
- development in a zone other than the Industry zone.

Category of assessment and assessment benchmarks

The proposed TLPI establishes impact assessment as the category of assessment for development for a material change of use for uses to which the proposed TLPI applies.

¹⁰ 'Industry zone' is land contained within the General industry A zone precinct, General industry B zone precinct and General industry C zone precinct of the Industry zone as contained within the planning scheme

¹¹ Use is defined under the Planning Act to include an ancillary use of a premises.

All other uses not regulated by the TLPI, will be assessed in accordance with the current planning scheme provisions.

Most uses regulated by the TLPI are already categorised as impact assessable under the planning scheme for industry zoned land in the CRIP, except for the following uses:

- car wash
- food and drink outlet (where less than 250m² gross floor area)
- parking station where a 'park and ride' or bicycle parking
- service station
- shop (where less than 250m² gross floor area).

Under the proposed TLPI these uses will be subject to impact assessment, rather than code assessment. Given the primarily non-industrial nature of these uses it is considered appropriate for these uses to become impact assessable within the CRIP.

In addition to establishing the category of assessment, the proposed TLPI establishes assessment benchmarks applicable to a development application for development to which the proposed TLPI applies, which support the strategies under *ShapingSEQ*, including:

- Goal 2: Prosper – Element 5: MEIA and Element 2: REC – by enabling appropriate development and extension of industry uses on industry zoned land.

The proposed TLPI suspends the application of two performance outcomes and assessment outcomes of the planning scheme's Industry code, being PO23 and PO24 and AO23 and AO24, that address the location and scale of food and drink outlet and shop development. These provisions were identified as current limitations of the scheme in section 4.3 of this report.

Matters not addressed

The proposed TLPI does not:

- Regulate development that is envisaged as generally appropriate within the Industry zone, including:
 - Caretaker's accommodation
 - Emergency services
 - High impact industry
 - Low impact industry
 - Marine industry
 - Medium impact industry
 - Park
 - Renewable energy facility
 - Research and technology industry
 - Service industry
 - Special industry
 - Telecommunications facility (where not a broadcasting station or television station)
 - Utility installation
 - Warehouse.
 - Educational establishment for trade or industry related training where not involving overnight accommodation on premises

These uses continue to be appropriately regulated by the planning scheme.

- Protect the CRIP from encroachment from incompatible uses on non-industrial zoned land. For example, the TLPI does not apply to the Sport and recreation and Open space zoned land within the CRIP. The department has determined that it is not necessary for these matters to be included in the TLPI, as the existing arrangements under the planning scheme appropriately regulate uses within these non-industrial zones.

6.2. Assessment of Section 23 of the Planning Act

Section 23(1)(a)—there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area

The department considers the limitations of the existing planning scheme discussed in this PAR create a significant risk of serious adverse economic conditions happening in the local government area, as based on the Department's assessment:

- The current planning scheme provisions fail to ensure that development proposals for non-industrial development do not adversely impact on the intended industrial purpose of the CRIP. The scheme construct, and recent approvals given by the council, have created a circumstance where unintended non-industrial uses are seen to be broadly supported by the council and its planning scheme in this area. This is further demonstrated by a number of these approvals being subject to ongoing Planning and Environment Court actions on the grounds that such non-industrial uses involve the inappropriate use of this land.
- The overarching policy objectives of the area identified within the CRIP are not able to be delivered through application of the current scheme on a site-by-site application basis. The cumulative effect of these existing approvals coupled with further projected encroachment will compromise the viability and integrity of the industrial zoned land in the CRIP. For example, the current scheme does not include provisions that would prevent the intensification of non-industrial uses in this industrial area, particularly for a food and drink outlet use or shop use that is not specifically servicing the industrial workforce in the CRIP being able to be approved as code assessable development. The planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses.

The council wrote to the Planning Minister on 23 February 2021 seeking support in protecting the long-term viability of heavy industry uses, including the ACC facility, and in that correspondence the council raised the concern that they cannot guarantee under their existing planning scheme that future uses developed in the adjoining area will not result in reverse amenity impacts.

On 19 May 2021, a meeting occurred between the Deputy Premier and the Deputy Mayor (accompanied by the Director-General and State Planner, DSDILGP and the Chief Planner of the council). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.

The Council has since advised that it will not be progressing a TLPI to resolve this matter. The lack of strength in existing planning scheme provisions and a decision by the council to not proceed with a council proposed TLPI presents an immediate and increasing risk to the protection of industrial uses on industrial land within the CRIP and the effective regulation and assessment of non-industrial development in the CRIP, as based on the department's assessment of the current planning scheme provisions:

- the current planning provisions do not appropriately protect the achievement of the economic outcomes identified in *ShapingSEQ*; and
- the existing categories of assessment, strategic outcomes and assessment benchmarks are allowing unintended non-industrial uses to be approved in industrial area zones at a scale that is compromising the future viability of the CRIP area for continued industrial activities.

Consequently, the economic outcomes intended for the CRIP (as evidenced in *ShapingSEQ*), are put at significant risk, as the application of the planning scheme in the assessment of development cannot function or is unlikely to function to achieve the planned economic outcomes for the area.

This disfunction presents a significant risk of serious adverse economic conditions occurring in the CRIP in terms of the ongoing viability of industrial uses on industrial land.

Representations from significant landowners and industry businesses

The risk of these serious adverse economic conditions occurring in the CRIP are evidenced by representations received by the Planning Minister and the department from significant landowners and industry businesses in the CRIP:

Australian Country Choice

On 28 January 2021, [Refused under section 47(3)(b) of the RTI Act] ACC Group, wrote to the Planning Minister outlining concern with maintaining the existing industrial function of the ACC meat processing facility due to increased business uncertainty brought about by the encroachment of non-industrial uses in the CRIP. ACC occupies a site that has been utilised as a meat processing facility since the 1930s and has informed the department that it has injected more than \$200 million in upgrades since relocating to this site in 2000.

ACC made the following relevant statements in this representation:

"It is impossible for ACC to continue to invest without certainty and if we have to rely solely on the planning and environment court process it will be initially years and hundreds of thousands of dollars spent and eventually Millions of Dollars spent before a resolution is decided, a time frame and expense that is unacceptable to any business."

On 19 March 2021, representatives of ACC made additional representations to the Planning Minister following the 23 February 2021 approval of the Revel Brewery High Impact Industry (brewery) and Food and drink outlet development. These representations provided options for the Planning Minister to consider which including utilising call in and direction powers under the Planning Act.

[Refused under section 47(3)(b) of the RTI Act]

On 4 January 2021, [Refused under section 47(3)(b) of the RTI Act] wrote to the Chief Executive of the department regarding the 9 November 2020 approval by the council of an Indoor sport and recreation facility representing a significant non-industrial use in the CRIP. This correspondence is associated with a Planning and Environment Court action.

[Refused u] made the following relevant statements in this correspondence:

"The proposed development is inconsistent with the Respondent's intent for the use of the land in that:

- a) it will involve the inappropriate use of the land, which is located in the Industry Zone and in a Major Industry Area, for a non-industrial land use;*
- b) it will not facilitate the protection, evolution, diversification and expansion of a Major Industry Area for its intended purpose by introducing an incompatible non-industrial use into this area;*
- c) it will involve the inappropriate use of the land for a non-industrial land use that can be adequately located elsewhere in the city."*

Existing significant industrial uses in the CRIP are well established and hard to relocate. Operators of industrial uses have cited encroaching non-industrial development as a constraint to further investment and growth which will pose a risk of serious adverse economic conditions in the CRIP.

Section 23(1)(b)—the delay involved in using the process in sections 18 and 20 to make or amend another local planning instrument would increase the risk

Amending the planning scheme in accordance with the Planning Act would take the council a significant amount of time to complete because the planning issues are complex and there is likely to be significant stakeholder interest in any planning scheme amendment proposed by the council.

In amendments to its planning scheme currently underway, Council have recognised a need to strengthen strategic provisions throughout its planning scheme to ensure incompatible uses do not encroach on industrial land, and to clarify what uses may be considered as appropriate supporting uses on industrial land. However, this amendment process is yet to progress to public consultation, and is likely at least six (6) months away from completion and implementation.

Since the section 94 direction issued on 25 January 2021, there have been nine (9) development applications involving incompatible non-industrial uses lodged in the CRIP area. Officers in the department are also aware of a number of significant non-industrial development applications likely to be imminently lodged within the CRIP:

- A proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie within the TLPI boundary.
- Future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies, and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- Published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working with BMI to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.

While council have confirmed in its letter of 23 February 2021 that they are investigating further measures to protect the ACC abattoir facility the delay involved in completing this review and any subsequent planning scheme amendment process will continue to increase the risk identified above, noting that the current planning scheme:

- continues to allow the approval of incompatible non-industrial uses which will compromise the effective regulation of development in the CRIP, and which will continue until the scheme provisions are appropriately amended to align them with *ShapingSEQ*; and
- consequently creates current and ongoing uncertainty for current and future investment in existing and new industrial development within the CRIP.

The council has since advised that it will not be progressing a TLPI to resolve this matter

Section 23(1)(c)—the making of the TLPI would not adversely affect state interests

The department has assessed the proposed TLPI against all relevant state interests as articulated in *ShapingSEQ* and the SPP and concludes that no adverse effects on any state interest would result from the making of this TLPI.

6.3. Assessment of Section 27 of the Planning Act

Section 27 of the Planning Act provides that the Minister can take urgent action *to protect, or give effect to, a state interest*

Section 27 of the Planning Act allows the Planning Minister to make a TLPI where the Planning Minister considers:

- (a) the action should be taken to protect or give effect to a state interest; and
- (b) the action must be taken urgently.

A state interest is defined in the Planning Act as:

State interest means an interest that the Minister considers—

- (a) affects an economic or environmental interest of the State or a part of the State; or
- (b) affects the interest of ensuring this Act's purpose is achieved.

The purpose of the Planning Act (per section 3(1)) is:

*The purpose of this Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning (**planning**), development assessment and related matters that facilitates the achievement of ecological sustainability.*

Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, State, and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

Protecting, or giving effect to, state interests

The Planning Act seeks to “*establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability*”.

As outlined above, the planning scheme provisions present an immediate and increasing risk to the effective regulation and assessment of development in the CRIP, being an area recognised as a major driver of economic growth in SEQ by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*.

The current planning scheme provisions present an immediate and ongoing risk to the continuation of significant industrial uses on land in the Industry zone within the CRIP, whereby the council does not have appropriate planning controls to protect this recognised industrial area from encroachment by inappropriate non-industrial uses, as demonstrated by the recent approval of non-industrial uses in the CRIP.

While the council is currently progressing an amendment to the planning scheme that will in part address some of the existing issues, the nature of development currently being proposed and approved by the council makes it evident that the delay in the implementation of these arrangements will not address the issues at hand in a timely manner. It is noted that as the extent of the proposed amendments to the planning scheme will have broad effect across the planning scheme area, they

may not be sufficiently focused to address the specific issues relating to non-industrial development which is currently evident with the CRIP area.

The continued operation of appropriately established industrial development is of importance to the state, as reflected in the SPP and *ShapingSEQ*. Additionally, protecting core components including MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.

These clear state interests in both the SPP and *ShapingSEQ* are increasingly compromised by the current planning scheme arrangements which are not appropriately protecting industrial uses from encroachment of non-compatible uses. The planning scheme as it applies within the CRIP has resulted in development outcomes that are inconsistent with the purpose of the zone thereby not adequately protecting or giving effect to the Development and construction state interest of the SPP. Additionally, the planning scheme does not adequately protect existing and approved land uses or areas from encroachment by development that would compromise the ability of the medium and high-impact uses to function safely and effectively not achieving the intent of the Emissions and hazardous activities state interest under the SPP.

Urgent amendments are needed to address these matters in the existing planning scheme to:

- protect and give immediate effect to the purpose of the Planning Act to establish and therefore maintain, an accountable, efficient and effective land use planning and development assessment system. That is, a development assessment system that can:
 - achieve the development outcomes planned for the CRIP identified in *ShapingSEQ* and the SPP; and
 - facilitate the achievement of the economic outcomes set for the area by *ShapingSEQ*.

The proposed TLPI will protect and give effect to these State interests by ensuring:

- continued protection of the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur to provide economic benefits to the region and local area;
- incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development;
- protection and effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

Urgent action

The current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes set for the CRIP by *ShapingSEQ*. Recent development assessment decisions made by council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulate manner across the CRIP.

The need for urgent action in this area is demonstrated by the department's understanding that there are proponents who are considering establishing significant non-industrial uses on industry zoned land within the CRIP. This includes the Brewdog hotel proposal and future development at The Depot and Heritage Quarter as part of the Rivermakers development.

These issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-

industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.

Advice from Council that it will not be progressing a TLPI to resolve these matters significantly increases the risk of serious adverse economic conditions resulting from the approval of further non-industrial development cumulatively undermining the existing and intended role and function of the area as a major industry precinct.

A TLPI is an appropriate instrument that can address these issues, urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.

7. PROPOSED TLPI – PURPOSE AND EFFECT

Should the proposed TLPI be made, its purpose, application, period and effect are included below.

a) Purpose

The purpose of the proposed TLPI is to:

- continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area
- ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development and
- protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

The purpose of the TLPI will be achieved through development that is consistent with the Colmslie Road Industry Precinct (CRIP) Provisions contained in the proposed TLPI.

b) Application

- The proposed TLPI only applies to land in the Industry zone within the CRIP identified in Figure A of the TLPI in the Brisbane City Council local government area.

c) Period

- In accordance with section 9(3)(a) of the Planning Act, the effective day for the proposed TLPI is the day on which public notice of the proposed TLPI is published in the gazette.
- The proposed TLPI will have effect in accordance with the Planning Act for a period not exceeding two years from the effective day or a longer period as may be permitted by law or unless otherwise repealed sooner.

d) Effect

- The proposed TLPI is a local categorising instrument.
- The proposed TLPI applies to land in the Industry zone within the CRIP identified in Figure A in the TLPI.
- The proposed TLPI suspends parts of the planning scheme, for development to which the TLPI applies.
- The proposed TLPI prescribes a category of assessment, being impact assessment, for development for a material change for the uses to which the TLPI applies.
- Includes assessment benchmarks, which are contained in Attachment A of the proposed TLPI, for development to which the TLPI applies.

8. RECOMMENDATIONS AND REASONS

The department recommends intending to make the proposed TLPI in the form and for the reasons set out in this report.

Having regard to the information provided above, the department recommends the Planning Minister decide to intend to make the proposed TLPI for the reasons set out in the attached Statement of Reasons (**Attachment 3**).

Statement of Reasons

Statement of Reasons in respect of the decision by the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, made on 21 June 2021 under section 27 of the *Planning Act 2016* (Qld) (the Planning Act) to intend to make a Temporary Local Planning Instrument.

1 Decision

- 1.1 On 21 June 2021, I, the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, decided, in accordance with section 27 of the Planning Act, to give notice to the Brisbane City Council (the council) in accordance with section 27(2) of the Planning Act, that I intend to take action, namely, to make the Temporary Local Planning Instrument No. 02 of 2021 Colmslie Road Industry Precinct (the TLPI).
- 1.2 This TLPI provides an interim policy response to:
- (a) continue to protect the integrity of land in the Industry zone for new and existing industry uses and enable new investment in industry to occur within the Colmslie Road Industry Precinct (CRIP) to provide economic benefits to the region and local area
 - (b) ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
 - (c) protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
- 1.3 If made, the TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* (the planning scheme) as set out in the TLPI.
- 1.4 I am satisfied that the action I intend to take:
- (a) should be taken under section 26(2)(b) of the Planning Act to protect, or give effect to, a state interest and
 - (b) must be taken urgently.
- 1.5 The reasons for my decision are set out below.

2 Background

- 2.1 I was informed, by the Planning Assessment Report (PAR) prepared by the Department of State Development, Infrastructure, Local Government and Planning (the department) and provided to me as **Attachment 2** to the Briefing Note MBN21/643 as to background information relevant to my decision, relevant statutory provisions and the purpose and effect of the TLPI.
- 2.2 I particularly note the following, to which I had reference in making my decision:
- (a) the information contained in sections 1 – 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 2.3 The legislation and statutory instruments relevant to my decision are:
- (a) Planning Act
 - (b) Planning Regulation 2017

- (c) the planning scheme
 - (d) South East Queensland Regional Plan 2017 (*ShapingSEQ*) and the State Planning Policy (SPP).
- 2.4 I note the following legislative provisions are relevant to my decision.
- 2.5 Section 27 of the Planning Act applies if I consider that:
- (a) action should be taken under section 26(2)(b) to protect, or give effect to, a state interest, and
 - (b) the action must be taken urgently.
- 2.6 A 'state interest' is defined as an interest that I consider:
- (a) affects an economic or environmental interest of the state or a part of the state or
 - (b) affects the interest of ensuring that the Planning Act's purpose is achieved.
- 2.7 The purpose of the Planning Act is to '*establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability*'.
- Ecological sustainability is a balance that integrates—*
- (a) *the protection of ecological processes and natural systems at local, regional, State, and wider levels; and*
 - (b) *economic development; and*
 - (c) *the maintenance of the cultural, economic, physical and social wellbeing of people and communities.*
- 2.8 Under section 8(2) of the Planning Act, the SPP and *ShapingSEQ* are state planning instruments which are made to 'protect or give effect to state interests'.
- 2.9 The action which I may consider taking urgently under section 27 and 26(2)(b) of the Planning Act includes making a TLPI.
- 2.10 Under section 27 I can, as Planning Minister, take this action to make a TLPI if under section 23(1) of the Planning Act, I am satisfied:
- (a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area
 - (b) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk and
 - (c) the making of the TLPI would not adversely affect state interests.
- 2.11 Under section 27(2) of the Planning Act, before taking action, I must give the relevant local government a notice that states:
- (a) the action that I intend to take and
 - (b) the reasons for taking the action.
- 2.12 Under section 27(3) of the Planning Act, after giving the relevant notice under the Planning Act, I may take the action as required under the process in the Minister's Guidelines and Rules (MGR) without:
- (a) giving a direction to the local government under section 26 or
 - (b) consulting with any person before taking the action.

- 2.13 The MGR is made under section 17 of the Planning Act and include rules about making or amending TLPIs.
- 2.14 Section 10 of the Planning Regulation 2017 provides that the MGR are contained in the document called the 'Minister's Guidelines and Rules' dated September 2020, published on the department's website.
- 2.15 Chapter 3, Part 2 of the MGR prescribes the process for making or amending a TLPI for section 23 of the Planning Act.
- 2.16 A TLPI may suspend, or otherwise affect, the operation of another local planning instrument. However, a TLPI does not amend or repeal the instrument.

3 The evidence or other material on which findings on material questions of fact are based

- 3.1 In deciding that I intend to exercise my power under section 27 of the Planning Act, I had regard to the Briefing Note MBN21/643 and its attachments including the following documents:
 - (a) the TLPI
 - (b) the PAR
 - (c) the draft Notice to the council
 - (d) this Statement of Reasons.

4 Findings on material questions of fact

- 4.1 I made the following findings of fact having regard to the evidence or other material as set out in Section 3 above.

Background information

- 4.2 I accept the information contained in the PAR, specifically:
 - (a) the information contained in sections 1 to 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 4.3 More specifically, I made the following findings of fact having regard to the information provided in the PAR:
 - (a) The CRIP contains an area of predominantly industrial zoned land located west of the Gateway Motorway in Murarrie, Morningside and Bulimba, in eastern Brisbane. The CRIP is part of the larger Australia TradeCoast Regional Economic Cluster (Australia TradeCoast REC), a major economic and employment precinct identified in the *ShapingSEQ*. The council identify that this REC contains more than 1,410 employing businesses accounting for approximately 8% of Brisbane's total employment and generating more than \$15 billion of exports in the 2016-17 financial year.
 - (b) The CRIP is part of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the Australia TradeCoast REC. The CRIP is strategically located within Brisbane and SEQ. It has good access to major arterial roads, direct river access and access to the Port of Brisbane, is easily accessible by a skilled workforce and is close to significant commercial centres.
 - (c) The CRIP primarily contains land uses defined as High, Medium and Low impact industry with some Warehouse and ancillary commercial office uses. Development in the CRIP is ongoing with several lots currently unimproved or underutilised.

- (d) Existing significant industrial uses in the CRIP are well established and hard to relocate. These industries have the potential to cause nuisance to communities through environmental emissions such as air, odour and noise pollution or risks to the health and safety of communities, which characteristics require these industry uses to be in locations which are well separated from sensitive land uses.
- (e) Established industry operators within the CRIP have written to the state and the council expressing a desire to invest and grow their businesses. These operators have cited encroaching non-industrial development as a constraint to further investment and growth which will compromise the intended function of the Murarrie/Colmslie MEIA.
- (f) On 9 November 2020, a development application for an Indoor sport and recreation facility at 500 Lytton Road and 32 Colmslie Road, Murarrie was approved by the council for a period of two years.
 - (i) The site is industrial zoned land within the CRIP boundary.
 - (ii) I was requested to call in the development application, and in its request the requestor raised concern:
 - (A) that the development would have a detrimental impact on the operation of its business as well as the operation of other industries in the major industry area and
 - (B) about ongoing urban development being approved by the council and encroaching on its existing facility.
- (g) On 22 January 2021, I decided not to call in the application.
- (h) This approval has been the subject of two Planning and Environment Court appeals [3451/20] and [23/21].
- (i) In considering this call in request, I considered that the approval and the council's assessment material relating to the application, as well as the appeals, identified significant planning issues relating to matters of state interest. Accordingly, I decided on 22 January 2021 to direct the council, in accordance with section 94 of the Planning Act, to provide me with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC for a period of twelve months.
- (j) The intent of this monitoring is to construct a fulsome picture of all relevant applications made to council so that I may be informed of the overall impact that applications the subject of the direction may have on the outcomes sought to be achieved for industrial land in the Australia TradeCoast REC.
- (k) Since the issuing of this direction to the council, 49 applications have been provided to me by the council. To date, nine of these applications relate to land within the CRIP boundary.
- (l) On 23 February 2021, the council also approved a code assessable development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie (land within the CRIP boundary). This application is the subject of current legal proceedings. This approval is the subject of representations made to me on 19 March 2021, seeking greater interventions from the State government to address non-industrial uses impacting the on-going viability of industry uses in the industry zone.
- (m) I am informed of the following other proponents who are considering establishing non-industrial uses on industrial zoned land within the CRIP:
 - (i) Published media reports promoting a proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie.

- (ii) Future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies, and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- (iii) Published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.
- (n) On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner wrote to me seeking support in protecting the long-term viability of the Australian Country Choice facility (located within the CRIP). The council recognised limitations of the current planning scheme in appropriately protecting industrial land and industrial land uses from incompatible development.
- (o) From 23 February 2021, departmental officers have engaged with council officers regarding progressing a council prepared TLPI.
- (p) On 19 May 2021, I met with Councillor Krista Adams, Deputy Mayor (accompanied by the Director-General and State Planner of the department and council's Chief Planner). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.
- (q) The council has since advised the department that they will not be progressing a TLPI to resolve the matter.
- (r) I have had regard to the department's assessment in the PAR of the relevant provisions of the planning scheme for the CRIP.
 - (i) Within the strategic framework of the planning scheme, the CRIP is located within the Major Industry Area. The intent of this Major Industry Area is to:
 - (A) protect existing industry uses from encroachment of non-compatible uses whilst promoting the colocation of business and administrative functions where directly related to the principal industrial use of the premises; and
 - (B) provide the principal regional activity centres for the city and provide high levels of employment through encouraging and accommodating economic activity.
 - (ii) Most of the land within the CRIP is contained within the Industry zone (General Industry A, B and C precincts) zones of the City Plan.
 - (A) The intent of the General Industry A zone precinct is for development to provide *'for low impact industry, service industry and warehouse uses' and to include 'a broad range of industry that is compatible with adjacent residential areas.'*
 - (B) The intent of the General Industry B zone precinct is for development to provide *'for low impact industry and medium impact industry.'*
 - (C) The intent of the General Industry C zone precinct is for development to provide *'for a range of high impact industry uses and compatible medium impact industry uses.'*
 - (iii) Specifically, the CRIP is located within and contains areas defined as the:
 - (A) River Gateway Neighbourhood Plan Area – NPP 005 – Industry
 - (B) Bulimba Districts Neighbourhood Plan Area.

- (s) Having regard to the department's assessment in the PAR, I am satisfied:
- (i) The planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process, as:
 - (A) The planning schemes overarching intent for the CRIP is to protect existing uses from encroachment of non-compatible uses. However, the overarching policy objectives are not able to be delivered through application of the more detailed provisions within the current planning scheme on a site-by-site application basis.
 - (B) The intent for the CRIP includes providing only for the number and scale of non-industrial uses needed to service the functioning of businesses and workforce within the area, however the scheme does not adequately provide for the assessment of these uses.
 - (C) The current planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses. These provisions do not provide for the assessment of the cumulative effect of multiple non-industrial uses within the industry area.
 - (D) The categories of development and assessment for non-industrial uses, such as Food and drink outlet and Shop within the CRIP, are code assessable where meeting gross floor area requirements. While the intent of these prescribed gross floor areas is to limit the scale of intended uses, outdoor dining areas are not included within the calculation of gross floor area and may significantly increase the anticipated scale of Food and drink outlet and Shop uses as demonstrated by recent and proposed development activity. The continued provision of outdoor dining areas will have the effect of increased reverse amenity impacts on established industrial uses in this area whilst cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
 - (E) The River gateway neighbourhood plan code does not contain assessment benchmarks relevant to non-industrial uses within the CRIP and therefore does not provide sufficient fine grain planning to ensure the ongoing industrial viability of this state-significant industry area.
 - (F) The Industry code does not provide assessment benchmarks relevant to other potentially incompatible non-industrial development, such as Indoor sport and recreation. Assessment of these uses currently relies on the overall outcomes contained within 6.2.5.2 Industry zone code which as does not provide sufficient clarity to applicants as to the intent for development in this area.
 - (ii) This has resulted in unintended non-industrial uses occurring in the CRIP;
 - (iii) The cumulative effect of non-industrial development will compromise the viability and integrity of the industrial zoned land in the CRIP.
- (t) I am further informed that the council is currently proposing to amend its planning scheme (package Amendment K) to better support the industrial economy and jobs and implement actions relating to the *Brisbane Industrial Strategy 2019*. It is not likely this amendment process will be completed within the next six months.
- (u) Finally, I have had regard to the department's assessment in the PAR of:
- (i) the Planning Act, SPP and *ShapingSEQ* provisions relating to state interests relevant to my decision

- (ii) the effect and purpose of the TLPI and
- (iii) the statutory requirements relevant to the exercise of my power under section 27 to make the TLPI.

5 Reasons for decision

- 5.1 I consider it is appropriate to and I intend to make the TLPI pursuant to section 27 of the Planning Act to suspend or otherwise affect the operation of the planning scheme for the following reasons.

Section 23(1)(a) of the Planning Act – Potential serious adverse economic impacts

- 5.2 I consider the limitations of the current planning scheme discussed in the PAR create a significant risk of serious adverse economic conditions happening in the local government area, for the following reasons:

- (a) I am satisfied that, having regard to the department's assessment of the current planning scheme provisions there is an immediate and increasing risk to the protection of industrial uses on industrial land within the CRIP as well as the effective regulation and assessment of non-industrial development in the CRIP as:
 - (i) the current planning provisions do not appropriately protect the achievement of the economic outcomes identified in *ShapingSEQ*;
 - (ii) the planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process;
 - (iii) the existing categories of assessment, strategic outcomes and assessment benchmarks are allowing unintended non-industrial uses to be approved in industrial area zones at a scale that is compromising the future viability of existing industry uses and for continued industrial activities in the CRIP area;
 - (iv) the council has written to me acknowledging that the planning scheme cannot guarantee future uses in this area will not result in reverse amenity impacts to existing industrial uses.
- (b) I am satisfied that the encroachment of non-industrial development is a constraint to further investment in and growth of industrial activities. I consider these conclusions are supported by the representations made to me and the department about the approval of non-industrial uses in the CRIP, as set out in the PAR.
- (c) Consequently, I am satisfied that the achievement of the economic outcomes planned for the CRIP, as evidenced in *ShapingSEQ* is being put at significant risk, as the development assessment system cannot function or is unlikely to function to achieve the planned economic outcomes for the area, and presents a significant risk of serious adverse economic conditions happening in the CRIP in regard to the ongoing viability of industrial uses on industrial land.

Section 23(1)(b) of the Planning Act – Increased Risk

- 5.3 I am informed by the department, as set out in the PAR, that:
- (a) Amending the planning scheme in accordance with the Planning Act would take the council a significant amount of time to complete because the planning issues are complex and there is likely to be significant stakeholder interest in any planning scheme amendment proposed by the council.
 - (b) In amendments to its planning scheme currently underway, the council has recognised a need to strengthen strategic provisions throughout its planning scheme to ensure incompatible uses do not encroach on industrial land, and to clarify what uses may be considered as appropriate

supporting uses on industrial land. However, this amendment process is yet to progress to public consultation and is likely at least six months away from completion and implementation.

- (c) Development applications involving non-industrial uses are being lodged in the CRIP area, with the department informing me:
 - (i) there have been at least nine such development applications lodged with the council since 25 January 2021 and
 - (ii) there are future significant non-industrial development applications likely to be lodged within the CRIP, as detailed in the PAR.

5.4 On this basis, I am satisfied the delay involved in using the planning scheme amendment process in sections 18 to 22 of the Planning Act would increase the risk identified above, as the planning scheme as it stands:

- (a) continues to allow the approval of incompatible non-industrial uses which will compromise the effective regulation of development in the CRIP, and which will continue until the scheme provisions are appropriately amended to align them with *ShapingSEQ* and
- (b) consequently, creates current and ongoing uncertainty for current and future investment in existing and new industrial development within the CRIP.

Section 23(1)(c) of the Planning Act – No adverse affect on state interests

5.5 I have had regard to the department's assessment of the proposed TLPI against relevant state interests as articulated in *ShapingSEQ* and the SPP and the department's conclusion that no adverse effect on any state interest would result from the making of this TLPI.

5.6 On this basis, I am satisfied that making the TLP would not adversely affect any state interest.

Section 27 of the Planning Act

5.7 I note that section 27 of the Planning Act allows me as the Planning Minister to make a TLPI where I consider:

- (a) the action should be taken to protect or give effect to a state interest and
- (b) the action must be taken urgently.

5.8 I further note that a 'state interest' is defined as an interest that I consider:

- (a) affects an economic or environmental interest of the state or a part of the state or
- (b) affects the interest of ensuring that the Planning Act's purpose is achieved.

5.9 I consider for the reasons detailed below, that the requirements set out in section 27 of the *Planning Act 2016* are met as:

- (a) The TLPI should be made to protect or give effect to the state interest outlined below and
- (b) The TLPI should be made urgently.

State Interest

5.10 The purpose of the Planning Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability.

5.11 Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, state, and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

5.12 Having regard to the department's assessment in the PAR, I consider the TLPI should be made to protect or give effect to the state interest of ensuring that the Planning Act's purpose is achieved, for the following reasons:

- (a) I am informed that the CRIP is a strategically located area, recognised as a major driver of economic growth in South East Queensland by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*.
- (b) I am informed the continued operation of appropriately established industrial development is of importance to the state, as reflected in the SPP and *ShapingSEQ*. Additionally, protecting core components including MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.
- (c) I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to the continuation of significant industrial uses on industry zoned land in the CRIP boundary, whereby the planning scheme does not have appropriate planning controls to protect this recognised industrial area from encroachment by inappropriate non-industrial uses. This conclusion is supported by the recent approval of non-industrial uses in the CRIP.
- (d) I am satisfied that immediate amendments are needed to these provisions in the existing planning scheme, to protect and give immediate effect to the purpose of the Planning Act to establish and therefore maintain, an accountable, efficient and effective land use planning and development assessment system. That is, a development assessment system that can:
 - (i) achieve the development outcomes planned for the CRIP identified in *ShapingSEQ* and the SPP and
 - (ii) facilitate the achievement of the economic outcomes set for the area by *ShapingSEQ*.
- (e) I am satisfied the proposed TLPI will protect and give effect to this state interest by:
 - (i) altering the level of assessment for certain non-industrial uses from code assessment to impact assessment, thereby providing a more appropriate assessment framework for non-industrial uses where on industrial zoned land in the CRIP
 - (ii) introducing new assessment benchmarks for assessable development for a non-industrial use on industrial zoned land, to support the planning outcomes sought for the CRIP and
 - (iii) suspending the application of certain performance and assessment outcomes in the scheme, that do not appropriately support the intended outcomes for the CRIP.
- (f) Collectively, the provisions within the TLPI will ensure:
 - (i) accountable, effective and efficient assessment of proposed non-industrial development in the CRIP
 - (ii) the economic outcomes for the CRIP set out in *ShapingSEQ* are achieved.

Urgency

- 5.13 I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes identified for the CRIP by *ShapingSEQ*. Recent development assessment decisions made by the council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulate manner across the CRIP.
- 5.14 I am satisfied that the need for urgent action in this area is demonstrated by the department's understanding that there are proponents who are considering establishing significant non-industrial uses on industry zoned land within the CRIP. This includes the Brewdog hotel proposal and future development at The Depot and Heritage Quarter as part of the Rivermakers development.
- 5.15 I am satisfied that there is a significant likelihood that further non-industrial development will increasingly continue to occur in this area and the decision of the council to not take immediate action by progressing a council prepared TLPI, significantly increases the risk of serious adverse economic conditions resulting from further non-industrial development cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
- 5.16 I am satisfied that these issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.
- 5.17 The proposed TLPI is an appropriate instrument that can address these issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.
- 5.18 On this basis, I consider it is necessary to urgently implement the TLPI.

Dated this 21 day of June 2021



STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning



Hon Steven Miles MP
Deputy Premier
Minister for State Development, Infrastructure,
Local Government and Planning

Our ref: MBN21/643

21 June 2021

1 William Street
Brisbane Queensland 4000
Email deputy.premier@ministerial.qld.gov.au

Mr Colin Jensen
Chief Executive Officer
Brisbane City Council
CEOOffice.BCC@brisbane.qld.gov.au

Dear Mr Jensen

In accordance with section 27(2) of the *Planning Act 2016* (the Planning Act), I hereby give you Notice that I intend to make Temporary Local Planning Instrument No. 2 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI) effective from the day it is published in the Queensland Government gazette.

The proposed TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* for the Colmslie Road Industry Precinct. A copy of the proposed TLPI is enclosed.

I consider that urgent action should be taken to protect, and give effect to, state interests in accordance with section 27(1) of the Planning Act. My reasons for taking this action are also enclosed.

If you require any further information regarding this matter, please contact Ms Danielle Cohen, Chief of Staff in my office, by email at danielle.cohen@ministerial.qld.gov.au or by telephone on (07) 3719 7100.

Your sincerely

A handwritten signature in blue ink, appearing to be 'S Miles'.

STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

Enc (2)

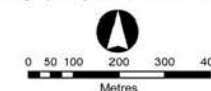
cc The Right Honourable the Lord Mayor of Brisbane
Councillor Adrian Schinner
Brisbane City Council
Lord.Mayor@brisbane.qld.gov.au

Colmslie Road Industry Precinct (Brisbane City Plan 2014 Zoning)

Legend

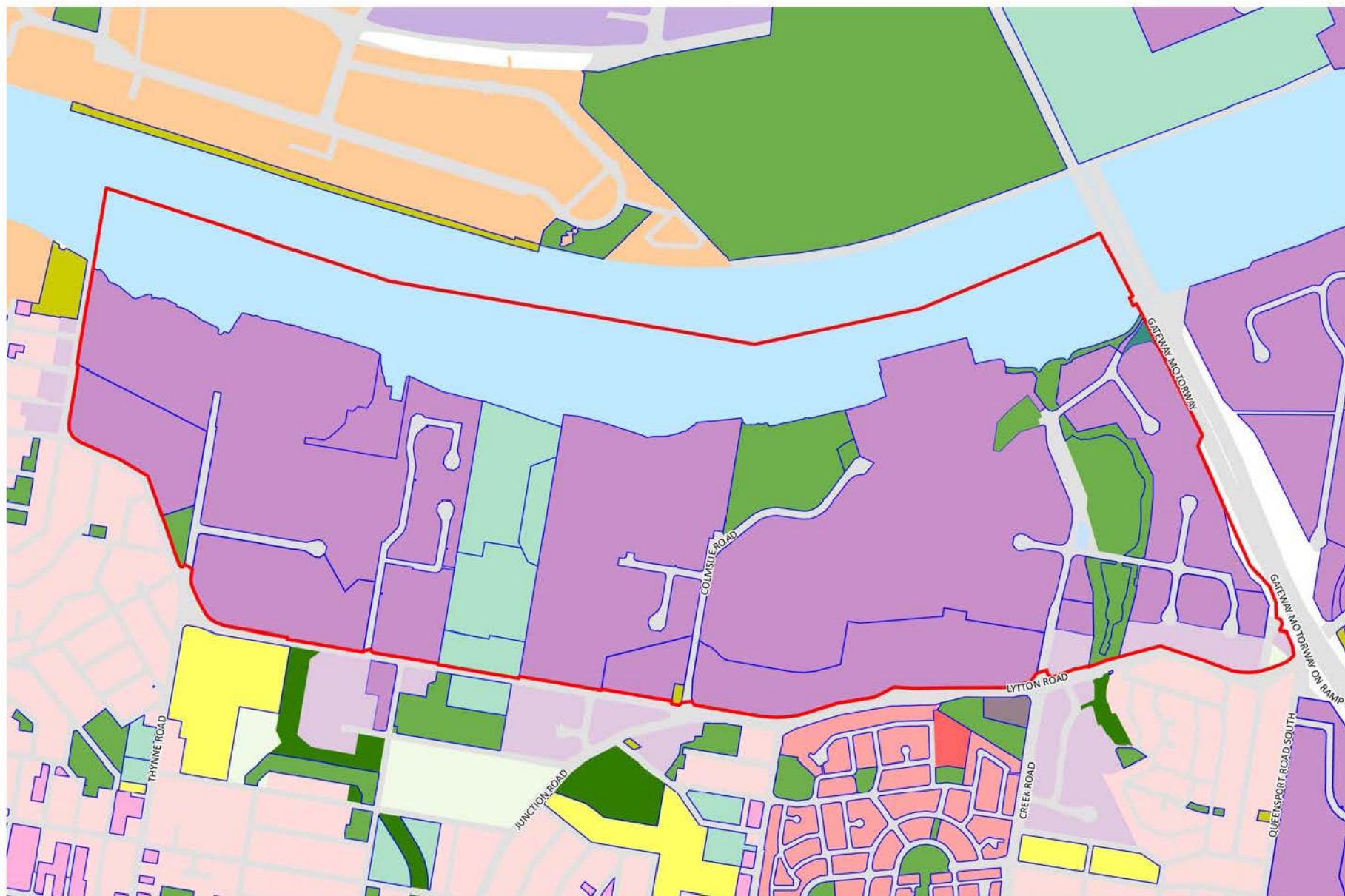
- Boundary of Colmslie Road Industry Precinct
- BCC Zone**
- LDR Low density residential
- CR1 Character residential (Character)
- LMR2 Low-medium density residential (2 or 3 storey mix)
- MDR Medium density residential
- NC Neighbourhood centre
- LI1 Low impact industry
- IN1 General industry A
- IN2 General industry B
- IN3 General industry C
- II Industry investigation
- SR1 Sport and recreation (Local)
- SR2 Sport and recreation (District)
- SR3 Sport and recreation (Metropolitan)
- OS Open space
- OS1 Open space (Local)
- OS2 Open space (District)
- OS3 Open space (Metropolitan)
- EM Environmental management
- CN Conservation
- EC Emerging community
- RU Rural
- CF5 Education purposes
- CF6 Emergency services
- SC5 Mixed industry and business
- Special purpose:**
- SP1 Defence
- SP3 Transport infrastructure
- SP4 Utility services
- SP6 Port

Imagery: May 2020, 10cm resolution



Map created at: A3
Coordinate System: GDA 1994 MGA Zone 56
Projection: Transverse Mercator
Datum: GDA 1994

Map produced by the Department of State Development,
Infrastructure, Local Government and Planning
Spatial Services Unit. Finalised 14/06/2021



Human Rights Impact Assessment

Introduction

The [Human Rights Act 2019](#) (HR Act) protects 23 human rights. The principal aim of the HR Act is to ensure that respect for human rights is embedded in the culture of our public sector. The HR Act requires public entities to:

- act and make decisions in a way that is compatible with human rights; and
- in making a decision, give proper consideration to any human rights relevant to the decision.

The HR Act applies to all Queensland public entities (including Ministers, Directors-General, the Coordinator-General, decision-makers, delegates, departments and public service employees). It also applies to an entity established under an Act, for example: South Bank Corporation, the Economic Development Board or the Queensland Reconstruction Authority.

The purpose of this assessment is to demonstrate how human rights have been considered for the below decision or action. This involved considering:

- whether any human rights protected by the HR Act are likely to be relevant to the decision/action
- whether there is potential for those identified human rights to be limited by the decision/action
- if there is potential for human rights to be limited by the decision/action, whether a less restrictive way of achieving the purpose of the decision/action is reasonably available
- if there is no less restrictive way of achieving the purpose of the decision/action, whether any limitation is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

Decision or action

The decisions involved:

- the Minister to take urgent action under section 27(1) of the *Planning Act 2016* (Planning Act) and make a temporary local planning instrument (TLPI) No. ~~01-02~~ of 2021 – Colmslie Road Industry Precinct (CRIP) (the proposed TLPI)
- the Minister to give notice to the Brisbane City Council (the council) in accordance with section 27(2) of the Planning Act of the intended action to make the proposed TLPI.

The purpose of the TLPI is to:

- continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area
- ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
- protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

1. Identify relevant human rights (refer to Appendix 1 for a full list of human rights)

The rights most likely to be relevant to the decision, include:

- section 15 – recognition and equality before the law

- section 21 – freedom of expression
- section 23 – taking part in public life, and
- section 24 – property rights (the right to own property and not be arbitrarily deprived of it).

2. Consider whether human rights will be limited by the decision or action

The decision **will not** potentially limit (or interfere with) the identified human rights in sections 15, 21 and 23, as outlined below:

a) section 15 – recognition and equality before the law

- Section 15 provides that every person:
 - has the right to recognition as a person before the law and the right to enjoy their human rights without discrimination
 - is equal before the law and is entitled to equal protection of the law without discrimination. Every person is entitled to equal and effective protection against discrimination
- In summary, section 15 is concerned with policy, legislation or other actions that may be discriminatory.
- The proposed TLPI potentially affects some landowners and uses in the CRIP in changing the category of assessment for some types of non-industry uses (noting the majority of these uses were already categorised as impact assessable) and further strengthening assessment benchmarks relevant to these uses to discourage their commencement. For example, the proposed TLPI includes assessment benchmarks which require that proposed development that is subject to the TLPI to:
 - have a clear nexus with and that it is necessary to support the ongoing viable functioning of industrial activities within the CRIP;
 - not include a sensitive use; and
 - specifically, indoor sport and recreation and outdoor sport and recreation uses are not located on Industry zoned land within the CRIP.
- The process to make, or material effect of, the proposed TLPI is not considered to be discriminatory as the proposed TLPI will not apply differently to different people, rather it strengthens existing assessment rules for particular non-industrial development in existing industrial zones within a broad defined area that can be undertaken by any person. Therefore, this right is not being limited by the decision.

b) section 21 – freedom of expression

- Section 21 recognises the rights to hold and express opinions and the freedom to seek, receive and impart information and ideas of all kinds. This includes making decisions in relation to the provision of information or restrictions on access to information.
- The proposed TLPI refines the level of assessment and includes additional assessment benchmarks for certain non-industrial uses in the CRIP. The majority of non-industrial uses are already categorised as impact assessable in the existing planning scheme, the proposed TLPI will result in all non-industrial development subject to the TLPI being made impact assessable in this area and giving the opportunity for public objection and appeal and therefore freedom of expression is improved.

c) section 23 – taking part in public life

- Section 23 protects the rights and opportunities of every person in Queensland to take part in public life without discrimination. This includes the communication of information and ideas about public and political issues.

- To the extent this right relates to the public's ability to communicate information and ideas about public issues, this right has been identified as relevant however it is noted that the TLPI does not have any impact on electoral processes.
- Although the proposed TLPI may affect assessment processes for certain land uses and not others as mentioned above, it is considered that the proposed TLPI does not limit the human right under section 23 because it has no impact on an individual's right to participate in public life in terms of electoral processes.

d) section 24 – property rights

- Section 24 is concerned about decisions that include restricting the use of private property, including under planning laws.
- The proposed TLPI responds to the concerns of property owners within the CRIP, who have identified that the current *Brisbane City Plan 2014* (the planning scheme) does not adequately protect existing industrial uses on industrial zoned land from encroachment by incompatible non-industrial uses.
- The proposed TLPI may potentially impact on the use of private property. This is because the TLPI provides strengthened assessment requirements to support development assessment (and clearer regulation for unsupported uses), which could result in reduced development opportunities that otherwise would not have occurred under the current planning scheme. The TLPI may impact this human right in the following ways:
 - the proposed TLPI refines the levels of assessment for certain uses with the CRIP and contains provisions to refine the range of development types that the planning scheme could support.
 - the proposed TLPI provides a clear set of assessment benchmarks to inform the assessment of proposed development within the CRIP, which provides certainty and opportunities for property owners to develop their properties for desired uses whilst discouraging incompatible uses, that would already be generally undesirable under the existing planning scheme.

3. Determine whether the limit is reasonable and justifiable

The department's assessment has found that the decision **will** potentially limit (or interfere with) the identified human rights in section 21 (freedom of expression) and 24 (property rights).

The reasons why the limit is reasonable and justifiable is based on the following:

Section 21 – freedom of expression

a) The provisions are only temporary

- The proposed TLPI is a temporary measure that applies for up to two years and therefore limits on human rights only apply for a limited time.
- A TLPI is an appropriate instrument made under the Planning Act that can address planning issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme to reduce any ongoing impacts on this human right.

b) Community consultation will occur in the future

- The council will likely be required to integrate the policy intent of the TLPI through an amendment to the planning scheme. During this process, the community will have a chance to have their say on the provisions.
- During this process, the human rights of section 21 (freedom of expression) will be advanced.

c) Urgent action is required to respond to a state interest

- The planning scheme assessment criteria is currently allowing for inappropriate non-industrial development to occur, potentially as code assessable development. The proposed TLPI will strengthen community input into proposed development captured by the TLPI by making these applications impact assessable as well as strengthening planning controls to ensure development occurs in line with the overall intention of the planning scheme.
- The current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes set for the CRIP by the South East Queensland Regional Plan 2017 (*ShapingSEQ*). Recent development assessment decisions made by council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulative manner across the CRIP.
- These issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the current of more permanent assessment arrangements can be implemented.
- A TLPI is an appropriate instrument that can address these issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.

d) The TLPI refines and clarifies the existing intent

Recent development approvals and appeals currently underway demonstrate that the current planning scheme provisions which regulate non-industrial uses on industrial land are not sufficient to ensure non-compatible uses that could result in reverse amenity impacts to existing and future industrial development are not supported in this area. Even though the planning scheme at a strategic level, intends to achieve this.

The council have also recognised a need to strengthen strategic provisions throughout planning scheme, to ensure incompatible uses do not encroach on industrial land and to clarify what uses may be considered as appropriate supporting uses on industrial land.

The proposed TLPI seeks to address this existing deficiency in the planning scheme by ensuring no further incompatible non-industrial uses can be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.

Given the benefits to be achieved by the proposed TLPI and given the urgency as explained above, there is no other less restrictive way of achieving the outcome.

The proposed TLPI is considered appropriate despite the potential limitation on the human right of freedom of expression. Further, safeguards are incorporated into the TLPI in terms of the certainty of assessment arrangements and the public will have an opportunity to comment on relevant matters as part of a later planning scheme amendment process. In conclusion it is considered that the limitation of this right is reasonable and justifiable in accordance with section 13 of the Human Rights Act.

Section 24 – property rights

The proposed TLPI may potentially limit a person's right to develop their property within the boundary of the CRIP. This is because the TLPI provides clearer regulation for known unsupported

development, which has the effect of reducing the development opportunities for these uses, such as sport and recreation facilities in this area, which could have occurred under the current planning scheme.

Notwithstanding this potential new development, the department contends the proposed TLPI is seeking to strengthen existing planning scheme requirements which intend to restore an integrated, efficient, and accountable approach to development assessment to ensure that CRIP status under *ShapingSEQ* and its economic objectives are met.

The proposed TLPI has been drafted to ensure a balance that ensures proposed development non-industrial development within the CRIP does not compromise ongoing and future investment in industry to occur, while ensuring where these uses are appropriate, that they developed in a way that appropriately avoids or mitigates potential impacts of the use on available of industrial land in this area.

Having regard to the above considerations, the proposed TLPI is considered appropriate despite the potential limitation on the property rights of landowners within the CRIP. It is considered there is no other less restrictive way to achieve the purpose given the urgency and the current mismatch between the planning scheme and the outcomes stated in *ShapingSEQ*. In conclusion it is considered that the limitation of property rights is reasonable and justifiable in accordance with section 13 of the Human Rights Act.

Conclusion

The decision is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of that Act.

Appendix 1 – List of human rights

The [Human Rights Act 2019](#) sets out 23 protected human rights, which reflect the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These are:

- Right to recognition as a person and equality before the law (s15) *
- Right to life and right not to be arbitrarily deprived of life (s16) *
- Protection from torture and cruel, inhuman or degrading treatment (s17)
- Freedom from forced work – a person must not be held in slavery or servitude or made to perform forced or compulsory labour (s18) *
- Freedom of movement – a right to move freely within Queensland and leave and enter it and freedom to choose where to live (s19) *
- Freedom of thought, conscience, religion and belief (s20) *
- Freedom of expression which includes the right to hold an opinion and the freedom to seek, receive and impart information and ideas of all kinds (s21) *
- Right to peaceful assembly and freedom of association with others including the right to form and join trade unions (s22) *
- Right to participate in the conduct of public affairs including a right to vote (s23) *
- Right to own property and not be arbitrarily deprived of property (s24) *
- Right not to have privacy, family, home or correspondence unlawfully or arbitrarily interfered with and right not to have reputation unlawfully attacked (s25) *
- Protection of families and children (s26)
- Cultural rights – generally – all persons with a particular cultural, religious, racial or linguistic background have the right to enjoy their culture, to declare and practise their religion and use their language (s27) *
- Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (s28) *
- Right to liberty and security of person including a right not to be subjected to arbitrary arrest or detention (s29)
- Right to humane treatment when deprived of liberty (s30)
- Right to a fair hearing if charged with a criminal offence or a party to a civil proceeding (s31) *
- Rights in criminal proceedings including a right to be presumed innocent until proved guilty according to law (s32)
- Rights of children in the criminal process including a right to be segregated from all detained adults (s33)
- Right not to be tried or punished more than once for an offence for which the person has already been convicted or acquitted (s34)
- Protection against retrospective criminal laws including a right not to be found guilty of a criminal offence because of conduct that was not a criminal offence when it was engaged in (s35)
- Right to education (s36)
- Right to health services (s37).

*Note: there is potential for any human right to be relevant to the decision/action but the rights most likely to be relevant to the department's functions are indicated with an * above.*

Detailed information on the scope of each right, and examples of when the right may be relevant in practice are available from the Queensland Human Rights Commission: <https://www.qhrc.qld.gov.au/your-responsibilities-for-public-entities>.

From: [Infrastructure/Planning ESU](#)
To: CEOOffice.BCC@brisbane.qld.gov.au
Cc: Lord.Mayor@brisbane.qld.gov.au
Bcc: [Planning Correspondence](#)
Subject: Correspondence to Mr Colin Jensen from the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning – Our ref: MBN21/643
Date: Friday, 25 June 2021 9:52:00 AM
Attachments: [image001.png](#)
[Notice to Mr Colin Jensen and Cr Adrian Schrinner - Colmslie Road Industry Precinct.pdf](#)
[Enc - Proposed Colmslie Road Industry Precinct TLPI.pdf](#)
[Enc - Statement of reasons.pdf](#)
[image003.png](#)

Good afternoon

Please find attached correspondence from the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning.

Please do not respond to this email. If you wish to reply please send your email to deputy.premier@ministerial.qld.gov.au

Kind regards

Executive Services Unit

Department of State Development, Infrastructure,
Local Government and Planning
1 William Street, Brisbane QLD 4000

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Hon Steven Miles MP
Deputy Premier
Minister for State Development, Infrastructure,
Local Government and Planning

Our ref: MBN21/643

21 June 2021

1 William Street
Brisbane Queensland 4000
Email deputy.premier@ministerial.qld.gov.au

Mr Colin Jensen
Chief Executive Officer
Brisbane City Council
CEOOffice.BCC@brisbane.qld.gov.au

Dear Mr Jensen

In accordance with section 27(2) of the *Planning Act 2016* (the Planning Act), I hereby give you Notice that I intend to make Temporary Local Planning Instrument No. 2 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI) effective from the day it is published in the Queensland Government gazette.

The proposed TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* for the Colmslie Road Industry Precinct. A copy of the proposed TLPI is enclosed.

I consider that urgent action should be taken to protect, and give effect to, state interests in accordance with section 27(1) of the Planning Act. My reasons for taking this action are also enclosed.

If you require any further information regarding this matter, please contact Ms Danielle Cohen, Chief of Staff in my office, by email at danielle.cohen@ministerial.qld.gov.au or by telephone on (07) 3719 7100.

Your sincerely

A handwritten signature in blue ink, appearing to be "S Miles".

STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

Enc (2)

cc The Right Honourable the Lord Mayor of Brisbane
Councillor Adrian Schinner
Brisbane City Council
Lord.Mayor@brisbane.qld.gov.au

TEMPORARY LOCAL PLANNING INSTRUMENT NO. 02 OF 2021

COLMSLIE ROAD INDUSTRY PRECINCT

Brisbane City Council City Plan 2014

1. Short Title

- 1.1 This Temporary Local Planning Instrument (TLPI) may be cited as Temporary Local Planning Instrument 02/21 – Colmslie Road Industry Precinct.

2. Overview

- 2.1 This TLPI provides an interim response to protect the Colmslie Road Industry Precinct (CRIP) from encroachment by inappropriate non-industrial uses.
- 2.2 This TLPI seeks to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC).
- 2.3 This TLPI recognises the importance of the CRIP as a regionally and locally significant industry area with high employment levels, containing diverse and economically significant industries and continuing to support long-standing and hard to locate industries.
- 2.4 In particular, this TLPI seeks to ensure development on land in the Industry zone within the CRIP is appropriately regulated to protect the integrity the Industry zone for new and existing industry uses and to ensure future uses will not result in reverse amenity impacts to existing and future industrial uses within the CRIP.
- 2.5 New non-industrial development and intensification of existing non-industrial development is not supported on land in the Industry zone within the CRIP, unless compliant with the TLPI.

3. Purpose of the TLPI

- 3.1 The purpose of the TLPI is to:
 - i. Continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area.
 - ii. Ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development.

Temporary Local Planning Instrument 02/21 – Colmslie Road Industry Precinct
BRISBANE CITY COUNCIL

- iii. Protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3.2 To achieve this purpose the TLPI:

- i. Suspends parts of the planning scheme, for development to which this TLPI applies.
- ii. Prescribes a category of assessment for development for a material change for the uses to which this TLPI applies.
- iii. Includes assessment benchmarks, for development to which this TLPI applies.

3.3 The purpose of the TLPI will be achieved through development that is consistent with the assessment benchmarks contained in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI).

4. Duration of this TLPI

4.1 This TLPI has effect for a period of two years from the effective date.

4.2 In accordance with section 9(3)(a) of the *Planning Act 2016*, the effective date for the TLPI is **XX XXXX 2021**.

5. Terms used in this TLPI

5.1 Sensitive use is as defined in section SC1.2.3 of the planning scheme.

5.2 Where a term used in a this TLPI is not defined, the term shall have the meaning assigned to it by:

- i. the *Brisbane City Plan 2014* (the planning scheme); or
- ii. the *Planning Act 2016* where the term is not defined in the planning scheme.

5.3 To the extent of any inconsistency between this TLPI and the planning scheme, the TLPI prevails.

6. Effect of this TLPI

6.1 This TLPI is a local categorising instrument under the *Planning Act 2016* which specifies the categories of assessment and sets out assessment benchmarks for assessing development.

6.2 This TLPI applies to land in the Industry zone within the CRIP identified in Figure A.

- 6.3 This TLPI applies to assessable development for a material change of use for all uses¹ other than for:
- i. Caretaker's accommodation
 - ii. Educational establishment for trade or industry related training where not involving overnight accommodation on premises
 - iii. Emergency services
 - iv. High impact industry
 - v. Low impact industry
 - vi. Marine industry
 - vii. Medium impact industry
 - viii. Park
 - ix. Renewable energy facility
 - x. Research and technology industry
 - xi. Service industry
 - xii. Special industry
 - xiii. Telecommunications facility (where not a broadcasting station or television station)
 - xiv. Utility installation
 - xv. Warehouse.
 - xvi.
- 6.4 This TLPI does not apply to:
- i. accepted development for a material change of use
 - ii. development on land outside of the area within the CRIP identified in Figure A
 - iii. development in a zone other than the Industry zone.
- 6.5 The category of assessment for development for a material change of use to which this TLPI applies (in 6.3) is impact assessment where on land in the Industry zone identified within the CRIP in Figure A.
- 6.6 This TLPI suspends the following sections of the planning scheme when assessing a development application for development to which this TLPI applies:
- i. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO23 and AO23; and
 - ii. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO24 and AO24.
- 6.7 The assessment benchmarks applicable to a development application for development to which this TLPI applies, are set out in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI). These provisions apply in addition to the provisions in the planning scheme (unless stated otherwise).

¹ Use is defined under the *Planning Act 2016* to include an ancillary use of a premises.

Attachment A

Colmslie Road Industry Precinct Provisions

1. Compliance with the Colmslie Road Industry Precinct Provisions

- 1.1 Development that is consistent with the assessment benchmarks complies with the Colmslie Road Industry Precinct (CRIP) Provisions. Development that is inconsistent with these provisions constitutes undesirable development and is unlikely to be approved.

2. Purpose of the Colmslie Road Industry Precinct Provisions

- 2.1 The purpose of the CRIP Provisions is to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC) as a regionally and locally significant industry area, by:
- i. protecting the integrity of land in the Industry zone for new and existing industry uses that provide economic benefits to the region and local area; and
 - ii. ensuring incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development; and
 - iii. protecting the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3. Assessment benchmarks

- 3.1 The purpose of the CRIP Provisions will be achieved through the following overall outcomes:
- i. land in the Industry zone within the CRIP is used for new and existing industry uses; and
 - ii. land in the Industry zone within the CRIP is protected from use for inappropriate non-industrial activities; and
 - iii. non-industrial development that may result in reverse amenity impacts to industry uses does not locate on land in the Industry zone within the CRIP; and
 - iv. office uses do not locate on land in the Industry zone within the CRIP unless ancillary to an industrial use on the same site, such as an administrative area that directly supports the industrial use; and
 - v. indoor sport and recreation and outdoor sport and recreation uses do not locate on land in the Industry zone within the CRIP; and
 - vi. the only non-industrial uses contained on land in the Industry zone within the CRIP:

- a. are small-scale food and drink outlet or shop uses that provide business services and facilities that are necessary to support the industrial workforce within the CRIP or have a demonstrated direct nexus with industrial businesses; or
- b. do not involve a clustering of small non-industrial uses and do not locate in a catchment which is already serviced by an existing or approved non-industrial use; and
- c. are those needed to facilitate the economic growth and advancement of the industry uses within the CRIP; and
- d. do not adversely impact on the continued operation of nearby industrial uses or compromise the industrial function of the CRIP.

3.2 Development for a food and drink outlet:

- i. serves the local industrial workforce in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating or outdoor dining area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a food and drink outlet.

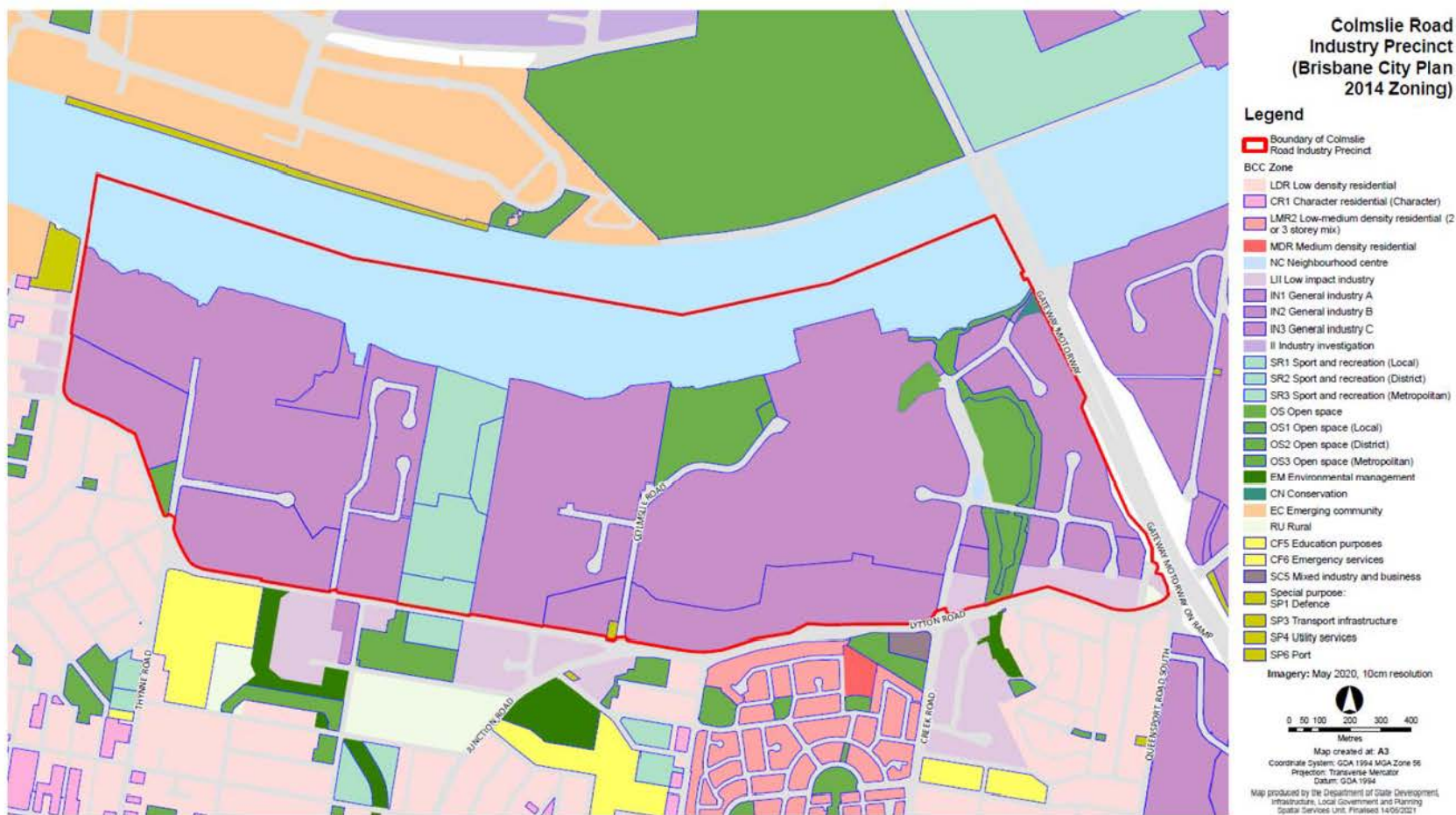
3.3 Development for a shop:

- i. serves the local industrial workforce or industry businesses in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a shop.

3.4 Development for any other use:

- i. has a clear nexus with and is necessary to support the viability of, and current and future operation of, industrial activities within the CRIP; and
- ii. does not include a sensitive use; and
- iii. specifically, does not involve an indoor sport and recreation or outdoor sport and recreation use.

Figure A – Colmslie Road Industry Precinct



Temporary Local Planning Instrument 02/21 – Colmslie Road Industry Precinct
 BRISBANE CITY COUNCIL

Statement of Reasons

Statement of Reasons in respect of the decision by the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, made on 21 June 2021 under section 27 of the *Planning Act 2016* (Qld) (the Planning Act) to intend to make a Temporary Local Planning Instrument.

1 Decision

- 1.1 On 21 June 2021, I, the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, decided, in accordance with section 27 of the Planning Act, to give notice to the Brisbane City Council (the council) in accordance with section 27(2) of the Planning Act, that I intend to take action, namely, to make the Temporary Local Planning Instrument No. 02 of 2021 Colmslie Road Industry Precinct (the TLPI).
- 1.2 This TLPI provides an interim policy response to:
- (a) continue to protect the integrity of land in the Industry zone for new and existing industry uses and enable new investment in industry to occur within the Colmslie Road Industry Precinct (CRIP) to provide economic benefits to the region and local area
 - (b) ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
 - (c) protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
- 1.3 If made, the TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* (the planning scheme) as set out in the TLPI.
- 1.4 I am satisfied that the action I intend to take:
- (a) should be taken under section 26(2)(b) of the Planning Act to protect, or give effect to, a state interest and
 - (b) must be taken urgently.
- 1.5 The reasons for my decision are set out below.

2 Background

- 2.1 I was informed, by the Planning Assessment Report (PAR) prepared by the Department of State Development, Infrastructure, Local Government and Planning (the department) and provided to me as **Attachment 2** to the Briefing Note MBN21/643 as to background information relevant to my decision, relevant statutory provisions and the purpose and effect of the TLPI.
- 2.2 I particularly note the following, to which I had reference in making my decision:
- (a) the information contained in sections 1 – 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 2.3 The legislation and statutory instruments relevant to my decision are:
- (a) Planning Act
 - (b) Planning Regulation 2017

- (c) the planning scheme
 - (d) South East Queensland Regional Plan 2017 (*ShapingSEQ*) and the State Planning Policy (SPP).
- 2.4 I note the following legislative provisions are relevant to my decision.
- 2.5 Section 27 of the Planning Act applies if I consider that:
- (a) action should be taken under section 26(2)(b) to protect, or give effect to, a state interest, and
 - (b) the action must be taken urgently.
- 2.6 A 'state interest' is defined as an interest that I consider:
- (a) affects an economic or environmental interest of the state or a part of the state or
 - (b) affects the interest of ensuring that the Planning Act's purpose is achieved.
- 2.7 The purpose of the Planning Act is to '*establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability*'.
- Ecological sustainability is a balance that integrates—*
- (a) *the protection of ecological processes and natural systems at local, regional, State, and wider levels; and*
 - (b) *economic development; and*
 - (c) *the maintenance of the cultural, economic, physical and social wellbeing of people and communities.*
- 2.8 Under section 8(2) of the Planning Act, the SPP and *ShapingSEQ* are state planning instruments which are made to 'protect or give effect to state interests'.
- 2.9 The action which I may consider taking urgently under section 27 and 26(2)(b) of the Planning Act includes making a TLPI.
- 2.10 Under section 27 I can, as Planning Minister, take this action to make a TLPI if under section 23(1) of the Planning Act, I am satisfied:
- (a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area
 - (b) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk and
 - (c) the making of the TLPI would not adversely affect state interests.
- 2.11 Under section 27(2) of the Planning Act, before taking action, I must give the relevant local government a notice that states:
- (a) the action that I intend to take and
 - (b) the reasons for taking the action.
- 2.12 Under section 27(3) of the Planning Act, after giving the relevant notice under the Planning Act, I may take the action as required under the process in the Minister's Guidelines and Rules (MGR) without:
- (a) giving a direction to the local government under section 26 or
 - (b) consulting with any person before taking the action.

- 2.13 The MGR is made under section 17 of the Planning Act and include rules about making or amending TLPIs.
- 2.14 Section 10 of the Planning Regulation 2017 provides that the MGR are contained in the document called the 'Minister's Guidelines and Rules' dated September 2020, published on the department's website.
- 2.15 Chapter 3, Part 2 of the MGR prescribes the process for making or amending a TLPI for section 23 of the Planning Act.
- 2.16 A TLPI may suspend, or otherwise affect, the operation of another local planning instrument. However, a TLPI does not amend or repeal the instrument.

3 The evidence or other material on which findings on material questions of fact are based

- 3.1 In deciding that I intend to exercise my power under section 27 of the Planning Act, I had regard to the Briefing Note MBN21/643 and its attachments including the following documents:
- (a) the TLPI
 - (b) the PAR
 - (c) the draft Notice to the council
 - (d) this Statement of Reasons.

4 Findings on material questions of fact

- 4.1 I made the following findings of fact having regard to the evidence or other material as set out in Section 3 above.

Background information

- 4.2 I accept the information contained in the PAR, specifically:
- (a) the information contained in sections 1 to 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 4.3 More specifically, I made the following findings of fact having regard to the information provided in the PAR:
- (a) The CRIP contains an area of predominantly industrial zoned land located west of the Gateway Motorway in Murarrie, Morningside and Bulimba, in eastern Brisbane. The CRIP is part of the larger Australia TradeCoast Regional Economic Cluster (Australia TradeCoast REC), a major economic and employment precinct identified in the *ShapingSEQ*. The council identify that this REC contains more than 1,410 employing businesses accounting for approximately 8% of Brisbane's total employment and generating more than \$15 billion of exports in the 2016-17 financial year.
 - (b) The CRIP is part of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the Australia TradeCoast REC. The CRIP is strategically located within Brisbane and SEQ. It has good access to major arterial roads, direct river access and access to the Port of Brisbane, is easily accessible by a skilled workforce and is close to significant commercial centres.
 - (c) The CRIP primarily contains land uses defined as High, Medium and Low impact industry with some Warehouse and ancillary commercial office uses. Development in the CRIP is ongoing with several lots currently unimproved or underutilised.

- (d) Existing significant industrial uses in the CRIP are well established and hard to relocate. These industries have the potential to cause nuisance to communities through environmental emissions such as air, odour and noise pollution or risks to the health and safety of communities, which characteristics require these industry uses to be in locations which are well separated from sensitive land uses.
- (e) Established industry operators within the CRIP have written to the state and the council expressing a desire to invest and grow their businesses. These operators have cited encroaching non-industrial development as a constraint to further investment and growth which will compromise the intended function of the Murarrie/Colmslie MEIA.
- (f) On 9 November 2020, a development application for an Indoor sport and recreation facility at 500 Lytton Road and 32 Colmslie Road, Murarrie was approved by the council for a period of two years.
 - (i) The site is industrial zoned land within the CRIP boundary.
 - (ii) I was requested to call in the development application, and in its request the requestor raised concern:
 - (A) that the development would have a detrimental impact on the operation of its business as well as the operation of other industries in the major industry area and
 - (B) about ongoing urban development being approved by the council and encroaching on its existing facility.
- (g) On 22 January 2021, I decided not to call in the application.
- (h) This approval has been the subject of two Planning and Environment Court appeals [3451/20] and [23/21].
- (i) In considering this call in request, I considered that the approval and the council's assessment material relating to the application, as well as the appeals, identified significant planning issues relating to matters of state interest. Accordingly, I decided on 22 January 2021 to direct the council, in accordance with section 94 of the Planning Act, to provide me with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC for a period of twelve months.
- (j) The intent of this monitoring is to construct a fulsome picture of all relevant applications made to council so that I may be informed of the overall impact that applications the subject of the direction may have on the outcomes sought to be achieved for industrial land in the Australia TradeCoast REC.
- (k) Since the issuing of this direction to the council, 49 applications have been provided to me by the council. To date, nine of these applications relate to land within the CRIP boundary.
- (l) On 23 February 2021, the council also approved a code assessable development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie (land within the CRIP boundary). This application is the subject of current legal proceedings. This approval is the subject of representations made to me on 19 March 2021, seeking greater interventions from the State government to address non-industrial uses impacting the on-going viability of industry uses in the industry zone.
- (m) I am informed of the following other proponents who are considering establishing non-industrial uses on industrial zoned land within the CRIP:
 - (i) Published media reports promoting a proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie.

- (ii) Future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies, and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- (iii) Published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.
- (n) On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner wrote to me seeking support in protecting the long-term viability of the Australian Country Choice facility (located within the CRIP). The council recognised limitations of the current planning scheme in appropriately protecting industrial land and industrial land uses from incompatible development.
- (o) From 23 February 2021, departmental officers have engaged with council officers regarding progressing a council prepared TLPI.
- (p) On 19 May 2021, I met with Councillor Krista Adams, Deputy Mayor (accompanied by the Director-General and State Planner of the department and council's Chief Planner). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.
- (q) The council has since advised the department that they will not be progressing a TLPI to resolve the matter.
- (r) I have had regard to the department's assessment in the PAR of the relevant provisions of the planning scheme for the CRIP.
 - (i) Within the strategic framework of the planning scheme, the CRIP is located within the Major Industry Area. The intent of this Major Industry Area is to:
 - (A) protect existing industry uses from encroachment of non-compatible uses whilst promoting the colocation of business and administrative functions where directly related to the principal industrial use of the premises; and
 - (B) provide the principal regional activity centres for the city and provide high levels of employment through encouraging and accommodating economic activity.
 - (ii) Most of the land within the CRIP is contained within the Industry zone (General Industry A, B and C precincts) zones of the City Plan.
 - (A) The intent of the General Industry A zone precinct is for development to provide *'for low impact industry, service industry and warehouse uses' and to include 'a broad range of industry that is compatible with adjacent residential areas.'*
 - (B) The intent of the General Industry B zone precinct is for development to provide *'for low impact industry and medium impact industry.'*
 - (C) The intent of the General Industry C zone precinct is for development to provide *'for a range of high impact industry uses and compatible medium impact industry uses.'*
 - (iii) Specifically, the CRIP is located within and contains areas defined as the:
 - (A) River Gateway Neighbourhood Plan Area – NPP 005 – Industry
 - (B) Bulimba Districts Neighbourhood Plan Area.

- (s) Having regard to the department's assessment in the PAR, I am satisfied:
- (i) The planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process, as:
 - (A) The planning schemes overarching intent for the CRIP is to protect existing uses from encroachment of non-compatible uses. However, the overarching policy objectives are not able to be delivered through application of the more detailed provisions within the current planning scheme on a site-by-site application basis.
 - (B) The intent for the CRIP includes providing only for the number and scale of non-industrial uses needed to service the functioning of businesses and workforce within the area, however the scheme does not adequately provide for the assessment of these uses.
 - (C) The current planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses. These provisions do not provide for the assessment of the cumulative effect of multiple non-industrial uses within the industry area.
 - (D) The categories of development and assessment for non-industrial uses, such as Food and drink outlet and Shop within the CRIP, are code assessable where meeting gross floor area requirements. While the intent of these prescribed gross floor areas is to limit the scale of intended uses, outdoor dining areas are not included within the calculation of gross floor area and may significantly increase the anticipated scale of Food and drink outlet and Shop uses as demonstrated by recent and proposed development activity. The continued provision of outdoor dining areas will have the effect of increased reverse amenity impacts on established industrial uses in this area whilst cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
 - (E) The River gateway neighbourhood plan code does not contain assessment benchmarks relevant to non-industrial uses within the CRIP and therefore does not provide sufficient fine grain planning to ensure the ongoing industrial viability of this state-significant industry area.
 - (F) The Industry code does not provide assessment benchmarks relevant to other potentially incompatible non-industrial development, such as Indoor sport and recreation. Assessment of these uses currently relies on the overall outcomes contained within 6.2.5.2 Industry zone code which as does not provide sufficient clarity to applicants as to the intent for development in this area.
 - (ii) This has resulted in unintended non-industrial uses occurring in the CRIP;
 - (iii) The cumulative effect of non-industrial development will compromise the viability and integrity of the industrial zoned land in the CRIP.
- (t) I am further informed that the council is currently proposing to amend its planning scheme (package Amendment K) to better support the industrial economy and jobs and implement actions relating to the *Brisbane Industrial Strategy 2019*. It is not likely this amendment process will be completed within the next six months.
- (u) Finally, I have had regard to the department's assessment in the PAR of:
- (i) the Planning Act, SPP and *ShapingSEQ* provisions relating to state interests relevant to my decision

- (ii) the effect and purpose of the TLPI and
- (iii) the statutory requirements relevant to the exercise of my power under section 27 to make the TLPI.

5 Reasons for decision

- 5.1 I consider it is appropriate to and I intend to make the TLPI pursuant to section 27 of the Planning Act to suspend or otherwise affect the operation of the planning scheme for the following reasons.

Section 23(1)(a) of the Planning Act – Potential serious adverse economic impacts

- 5.2 I consider the limitations of the current planning scheme discussed in the PAR create a significant risk of serious adverse economic conditions happening in the local government area, for the following reasons:

- (a) I am satisfied that, having regard to the department's assessment of the current planning scheme provisions there is an immediate and increasing risk to the protection of industrial uses on industrial land within the CRIP as well as the effective regulation and assessment of non-industrial development in the CRIP as:
 - (i) the current planning provisions do not appropriately protect the achievement of the economic outcomes identified in *ShapingSEQ*;
 - (ii) the planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process;
 - (iii) the existing categories of assessment, strategic outcomes and assessment benchmarks are allowing unintended non-industrial uses to be approved in industrial area zones at a scale that is compromising the future viability of existing industry uses and for continued industrial activities in the CRIP area;
 - (iv) the council has written to me acknowledging that the planning scheme cannot guarantee future uses in this area will not result in reverse amenity impacts to existing industrial uses.
- (b) I am satisfied that the encroachment of non-industrial development is a constraint to further investment in and growth of industrial activities. I consider these conclusions are supported by the representations made to me and the department about the approval of non-industrial uses in the CRIP, as set out in the PAR.
- (c) Consequently, I am satisfied that the achievement of the economic outcomes planned for the CRIP, as evidenced in *ShapingSEQ* is being put at significant risk, as the development assessment system cannot function or is unlikely to function to achieve the planned economic outcomes for the area, and presents a significant risk of serious adverse economic conditions happening in the CRIP in regard to the ongoing viability of industrial uses on industrial land.

Section 23(1)(b) of the Planning Act – Increased Risk

- 5.3 I am informed by the department, as set out in the PAR, that:
- (a) Amending the planning scheme in accordance with the Planning Act would take the council a significant amount of time to complete because the planning issues are complex and there is likely to be significant stakeholder interest in any planning scheme amendment proposed by the council.
 - (b) In amendments to its planning scheme currently underway, the council has recognised a need to strengthen strategic provisions throughout its planning scheme to ensure incompatible uses do not encroach on industrial land, and to clarify what uses may be considered as appropriate

supporting uses on industrial land. However, this amendment process is yet to progress to public consultation and is likely at least six months away from completion and implementation.

- (c) Development applications involving non-industrial uses are being lodged in the CRIP area, with the department informing me:
 - (i) there have been at least nine such development applications lodged with the council since 25 January 2021 and
 - (ii) there are future significant non-industrial development applications likely to be lodged within the CRIP, as detailed in the PAR.

5.4 On this basis, I am satisfied the delay involved in using the planning scheme amendment process in sections 18 to 22 of the Planning Act would increase the risk identified above, as the planning scheme as it stands:

- (a) continues to allow the approval of incompatible non-industrial uses which will compromise the effective regulation of development in the CRIP, and which will continue until the scheme provisions are appropriately amended to align them with *ShapingSEQ* and
- (b) consequently, creates current and ongoing uncertainty for current and future investment in existing and new industrial development within the CRIP.

Section 23(1)(c) of the Planning Act – No adverse affect on state interests

5.5 I have had regard to the department's assessment of the proposed TLPI against relevant state interests as articulated in *ShapingSEQ* and the SPP and the department's conclusion that no adverse effect on any state interest would result from the making of this TLPI.

5.6 On this basis, I am satisfied that making the TLP would not adversely affect any state interest.

Section 27 of the Planning Act

5.7 I note that section 27 of the Planning Act allows me as the Planning Minister to make a TLPI where I consider:

- (a) the action should be taken to protect or give effect to a state interest and
- (b) the action must be taken urgently.

5.8 I further note that a 'state interest' is defined as an interest that I consider:

- (a) affects an economic or environmental interest of the state or a part of the state or
- (b) affects the interest of ensuring that the Planning Act's purpose is achieved.

5.9 I consider for the reasons detailed below, that the requirements set out in section 27 of the *Planning Act 2016* are met as:

- (a) The TLPI should be made to protect or give effect to the state interest outlined below and
- (b) The TLPI should be made urgently.

State Interest

5.10 The purpose of the Planning Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability.

5.11 Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, state, and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

5.12 Having regard to the department's assessment in the PAR, I consider the TLPI should be made to protect or give effect to the state interest of ensuring that the Planning Act's purpose is achieved, for the following reasons:

- (a) I am informed that the CRIP is a strategically located area, recognised as a major driver of economic growth in South East Queensland by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*.
- (b) I am informed the continued operation of appropriately established industrial development is of importance to the state, as reflected in the SPP and *ShapingSEQ*. Additionally, protecting core components including MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.
- (c) I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to the continuation of significant industrial uses on industry zoned land in the CRIP boundary, whereby the planning scheme does not have appropriate planning controls to protect this recognised industrial area from encroachment by inappropriate non-industrial uses. This conclusion is supported by the recent approval of non-industrial uses in the CRIP.
- (d) I am satisfied that immediate amendments are needed to these provisions in the existing planning scheme, to protect and give immediate effect to the purpose of the Planning Act to establish and therefore maintain, an accountable, efficient and effective land use planning and development assessment system. That is, a development assessment system that can:
 - (i) achieve the development outcomes planned for the CRIP identified in *ShapingSEQ* and the SPP and
 - (ii) facilitate the achievement of the economic outcomes set for the area by *ShapingSEQ*.
- (e) I am satisfied the proposed TLPI will protect and give effect to this state interest by:
 - (i) altering the level of assessment for certain non-industrial uses from code assessment to impact assessment, thereby providing a more appropriate assessment framework for non-industrial uses where on industrial zoned land in the CRIP
 - (ii) introducing new assessment benchmarks for assessable development for a non-industrial use on industrial zoned land, to support the planning outcomes sought for the CRIP and
 - (iii) suspending the application of certain performance and assessment outcomes in the scheme, that do not appropriately support the intended outcomes for the CRIP.
- (f) Collectively, the provisions within the TLPI will ensure:
 - (i) accountable, effective and efficient assessment of proposed non-industrial development in the CRIP
 - (ii) the economic outcomes for the CRIP set out in *ShapingSEQ* are achieved.

Urgency

- 5.13 I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes identified for the CRIP by *ShapingSEQ*. Recent development assessment decisions made by the council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulate manner across the CRIP.
- 5.14 I am satisfied that the need for urgent action in this area is demonstrated by the department's understanding that there are proponents who are considering establishing significant non-industrial uses on industry zoned land within the CRIP. This includes the Brewdog hotel proposal and future development at The Depot and Heritage Quarter as part of the Rivermakers development.
- 5.15 I am satisfied that there is a significant likelihood that further non-industrial development will increasingly continue to occur in this area and the decision of the council to not take immediate action by progressing a council prepared TLPI, significantly increases the risk of serious adverse economic conditions resulting from further non-industrial development cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
- 5.16 I am satisfied that these issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.
- 5.17 The proposed TLPI is an appropriate instrument that can address these issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.
- 5.18 On this basis, I consider it is necessary to urgently implement the TLPI.

Dated this 21 day of June 2021



STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

From: [Infrastructure/Planning ESU](#)
To: [Pamela Williams](#); [Melissa Butler](#); [Carolyn Manjaji](#); [David Attrill](#)
Subject: FW: Urgent DP brief - MBN21/643 - Intention to Make TLPI No 2 of 2021 – Colmslie Road Industry Precinct
Date: Tuesday, 15 June 2021 9:50:40 AM
Attachments: [image002.png](#)
[image004.png](#)
[image006.png](#)

FYI

From: Planning Correspondence <PlanningCorrespondence@dsdmip.qld.gov.au>
Sent: Tuesday, 15 June 2021 9:49 AM
To: Infrastructure/Planning ESU <IPESU@dsdmip.qld.gov.au>; DLO <DLO@dlgrma.qld.gov.au>; Siobhan SPEAK <Siobhan.Speak@dsdilgp.qld.gov.au>
Subject: Urgent DP brief - MBN21/643 - Intention to Make TLPI No 2 of 2021 – Colmslie Road Industry Precinct

Hi all

Planning Group is progressing an urgent brief at the request of the DP's office for a Minister-led TLPI. KD has approved and I have just progressed in the Source.

BRIEF 1 - MBN21/643 – Intention to Make TLPI No 2 of 2021 – Colmslie Road Industry Precinct

This brief was originally progressed in March and was returned to the department while there were further discussions with the DP's office and with the council regarding the appropriate course of action. DP's office have now decided to go with a Minister TLPI (rather than a council-led TLPI).

We're progressing as a 'new brief' rather than showing all the changes from when it was first progressed as we want to the DP to consider it fresh.

Timing

We're progressing the package following advice from the DP's office that they want to consider the brief as a priority. The brief may be signed today or later in the week. We'll have a better idea of approval timing later today I think.

Finalising

- Please call me when the brief has been approved.
- ESU inserts the decision date to Attachment 3 (two places on page 1 and one place on page 10)
- ESU applies electronic signature on page 10 of Attachment 3
- ESU applies electronic signature on Notice to council (Attachment 4). Please note the Notice takes the form of a letter.
- The letter is emailed with two enclosures (Attachment 1 – proposed TLPI and Attachment 3 – signed and dated Statement of Reasons).
- Please note that Attachment 1 refers to a decision date on page 2. This is deliberately blank as the date is not added until the TLPI is made which will be the topic of a separate brief.
- I will let you know when the email can be sent to the council.

BRIEF 2 - MBN21/698 - Final Making of TLPI No 2 of 2021 – Colmslie Road Industry Precinct

When the email has been sent to the council PG will progress the second brief which is the final making of the TLPI. I'm just about to do my check of this brief and will send you a separate email about it.

Please contact me if you have any questions.

SUBJECT Final making of Temporary Local Planning Instrument No. 2 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI)

<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Not approved <input type="checkbox"/> Noted <input type="checkbox"/> Further information required (see comments)	Signed.....  Date.....29/6/21 Hon. Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning Comments:
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ACTION REQUIRED BY ASAP, due to the compelling operational issue of urgency to avoid an adverse impact on a matter of state interest.

RECOMMENDATION

It is recommended that you:

- **note** your decision of 21 June 2021 to serve notice on the Brisbane City Council (the council) advising of your intention to make the proposed TLPI under section 27(2) of the *Planning Act 2016* (the Planning Act)
- **note** the attached notice, dated 21 June 2021, was given to the council on 25 June 2021 (**Attachment 1**), advising of your intention to make the proposed TLPI and enclosing a copy of the proposed TLPI and the Statement of Reasons (SoR)
- **decide** to make the proposed TLPI (**Attachment 2**) in accordance with section 27(3) of the Planning Act for the reasons outlined in the SoR (**Attachment 3**)
- **note** no changes have been made to the proposed TLPI from the version approved by you on 21 June 2021
- **sign** the attached notice to Mr Colin Jensen, Chief Executive Officer of the council, copied to the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner (**Attachment 4**), notifying the council of your decision and enclosing a copy of the TLPI (**Attachment 2**)
- **note** that once made, the proposed TLPI will take effect on the day the public notice is given in the Queensland Government Gazette in accordance with section 9 of the Planning Act, and will be in effect for two years, unless repealed earlier
- **approve** the Department of State Development, Infrastructure, Local Government and Planning (the department) to take the necessary steps under the Planning Act and the Minister's Guidelines and Rules to publish a public notice about the proposed TLPI in a local newspaper and the Queensland Government Gazette (**Attachment 5**) and the way set out under section 88F(2) of the *Financial Accountability Act 2009* (FAA) via online newspaper
- **note** the department will provide a copy of the public notice to the council.

KEY ISSUES

- On 23 February 2021, Councillor Schrinner wrote to you affirming the council's support and recognition of the strategic importance of the Australia TradeCoast Regional Economic Cluster (Australia TradeCoast REC). In this letter Councillor Schrinner also acknowledged that the planning scheme cannot guarantee that future unintended uses in this area will not result in reverse amenity impacts to existing industrial uses.

- On 26 March 2021, you responded to Councillor Schrinner suggesting that the council could implement a Temporary Local Planning Instrument (TLPI) to address the issues raised in Councillor Schrinner's letter. You also sought Councillor Schrinner's advice as to whether the council would be willing to propose a TLPI by Tuesday 30 March 2021. You also advised that in the absence of the council acting you would consider using your power to introduce a Ministerial TLPI. It was at this time the department began preparing the proposed TLPI.
- On 30 March 2021, Councillor Adrian Schrinner responded to the 26 March 2021 letter. This letter did not confirm whether the council would or would not propose a TLPI to address the concerns in the Colmslie Road Industry Precinct (the CRIP).
- On 31 March 2021, council officers indicated a preference to work with Planning Group officers to fast-track the implementation of an existing proposed amendment to the *Brisbane City Plan 2014*, Major amendment package K – Other (the proposed amendment). The department considers this action would not resolve the immediate significant risk of serious adverse economic conditions happening in the local government area due to a delay associated in finalising the proposed amendment. Additionally, if expedited, in its current form, the proposed amendment would not adequately protect the ongoing viability of industrial uses within the CRIP. The department's assessment of this matter is contained in the Planning Assessment Report (PAR) (**Attachment 6**)
- On 19 April 2021, council officers were provided with a copy of the department prepared Ministerial TLPI for the purpose of consultation and review in preparing a council TLPI.
- On 30 April 2021, Councillor Schrinner advised that the council could not support and would not be progressing a council TLPI based on the department prepared Ministerial TLPI, and indicated that council's view that a TLPI based on the proposed amendment would resolve issues facing premises in the CRIP. Councillor Schrinner's letter provided reasons for this position which the department has used to update the department prepared TLPI (**Attachment 2**).
- On 19 May 2021, a meeting occurred between the you and Councillor Krista Adams, Deputy Mayor of the council (accompanied by the Director-General and State Planner of the department as well as senior council planning officers). It was agreed in this meeting that the council would progress a council TLPI to resolve this matter, with the department assisting where possible and appropriate.
- The council has since advised that it will not be progressing a TLPI to resolve this matter.
- Following your decision of 21 June 2021 (MBN21/643 refers), a notice was served to the council on 25 June 2021, advising of your intention to make the proposed TLPI for the CRIP. A copy of the email sent to the council enclosing a copy of the Notice, as well as the proposed TLPI and the Statement of Reasons, is at **Attachment 7**.
- The department considers that the current planning scheme contains assessment provisions fail to ensure that proposed non-industrial development does not adversely impact on the intended industrial nature of the Murarrie/Colmslie Major Enterprise and Industrial Area (the MEIA). This situation, and recent approvals given by the council, has provided an opportunity for unintended non-industrial uses to be seen to be broadly supported by the council and its planning scheme.
- Due to the concerns relating to the planning scheme provisions, industry operators within the MEIA have stated they lack certainty and confidence to grow their businesses, citing the planning scheme as a major impediment to future investment.
- As a result, the department is of the view the planning scheme provisions are ineffective and inefficient (which conflicts with the purpose of the Planning Act), they prevent industrial uses with the MEIA from achieving the economic outcomes identified in *ShapingSEQ* and they conflict with the intent of state interests within the State Planning Policy 2017 (the SPP).
- In summary, the planning scheme provisions present an immediate and ongoing impediment to the effective regulation and assessment of development for non-industrial uses on industry zoned land within the MEIA.
- Section 27 of the Planning Act provides that you may take urgent action if you consider:
 - action should be taken to protect, or give effect to, a state interest and

- the action must be taken urgently.
- A TLPI is a local planning instrument which can be used as the way to take the urgent action in section 27 of the Planning Act.
- Should you consider that urgent action is to be taken under section 27 of the Planning Act, you must also be satisfied of the matters in section 23(1) of the Planning Act for making a TLPI, namely that:
 - There is a current significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area.
 - The delay involved in using the process in the Planning Act to make or amend the planning scheme would increase the risk.
 - The making of the TLPI does not adversely affect state interests.
- The relevant state interests involved are the purpose of the Planning Act, the South East Queensland Regional Plan (*ShapingSEQ*) and the State Planning Policy 2017 (the SPP). These are detailed in the PAR provided at **Attachment 6**.
- The purpose of the proposed TLPI is to:
 - continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area
 - ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
 - protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
- The proposed TLPI seeks to ensure a balance that allows for investment in industry to occur while avoiding or mitigating potential impacts brought about by encroaching non-industrial uses. The overview of the proposed TLPI is:
 - the proposed TLPI provides an interim response to protect the CRIP from encroachment by inappropriate non-industrial uses
 - the proposed TLPI seeks to support the economic prosperity and growth of this key component of the Australia TradeCoast REC
 - the proposed TLPI recognises the importance of the CRIP as a regionally and locally significant industry area with high employment levels, containing diverse and economically significant industries and continuing to support long-standing and hard to locate industries
 - in particular, the proposed TLPI seeks to ensure development on land in the Industry zone within the CRIP is appropriately regulated to protect the integrity the Industry zone for new and existing industry uses and to ensure future uses will not result in reverse amenity impacts to existing and future industrial uses within the CRIP
 - New non-industrial development and intensification of existing non-industrial development is not supported on land in the Industry zone within the CRIP, unless compliant with the proposed TLPI.
- The proposed TLPI only applies to land in the Industry zone within the CRIP. Ancillary uses that are not identified as aspects of development in a development application will not be regulated by the TLPI.
- The department's full assessment for the proposed TLPI is contained in the PAR (**Attachment 6**) which concludes:
 - the requirements for making the TLPI under section 23 and section 27 of the Planning Act have been met
 - the reasons on which the department recommends you make the proposed TLPI.
- The proposed TLPI is an interim response to allow the council to prepare a planning scheme amendment, which would involve consultation with the community. It is intended that the provisions of the proposed TLPI provides a solid foundation for the council to advance a future planning scheme amendment. The department will continue to work with the council to assist in the preparation of the amendment.
- The SoR (**Attachment 3**) outlines the reasons that support the exercise of your power, should you decide to do so.
- A notice to the council (**Attachment 4**) has been prepared in the form of a letter which states that you have made the proposed TLPI urgently and the reasons for taking this action.

- The letter to the council states your expectation for the council to undertake the necessary studies and public consultation with the community to inform an amendment to the planning scheme that balances the range of community and commercial interests present in the CRIP. The letter confirms that Planning Group officers in the department, and council officers from the City Planning team have begun discussions to inform these expected actions.
- In the event you decide to make the proposed TLPI, it will not apply retrospectively to development which is already approved. However, if the proposed TLPI is made, it is understood that the Planning and Environment Court could choose to give the weight it considers appropriate to the TLPI in any relevant appeals before the court.

RESULTS OF CONSULTATION

- Legal Services have been consulted in the preparation of this brief.
- On 19 April 2021, council officers were provided with the department prepared TLPI. The letter from Councillor Schrinner on 30 April 2021 is feedback relating to this consultation and was used to update the department prepared TLPI. Additionally, officers from Planning Group have met with council officers several times to refine the proposed TLPI.

RESOURCE/FINANCIAL IMPLICATIONS

- There are no resource (e.g. staffing) or financial implications associated with this briefing note.

SENSITIVITIES/RISKS

- Failing to make a timely decision relating to the proposed TLPI carries sensitivities and risks as evidenced by the ongoing interest of key stakeholders in the CRIP and the competing interests of individual landholders and business operators who may be affected by the proposed TLPI.
- Despite the commencement of recent amendments to the FAA that generally override provisions in the Planning Act that relate to you in publishing notices in newspapers, public notice in a newspaper should still be undertaken for this TLPI out of an abundance of caution given there is uncertainty in the intended operation of the Ministerial TLPI provisions and the FAA provisions.

HUMAN RIGHTS IMPACT ASSESSMENT

- The human rights relevant to this decision are property rights (the right to own property and not be arbitrarily deprived of it), the freedom of expression, taking part in public life and equality before the law have been considered. The department's assessment found that this decision limits property rights.
- The decision is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of that Act. Refer to the attached human rights impact assessment (**Attachment 8**).

Author Name: Shane Spargo Position: Director, System Support & Improvement Unit: Planning Group Tel/Mob No: [Refused under Date: 14 June 2021	Approved by (Dir/Exec Dir) Name: Christopher Aston Position: Executive Director Branch: Policy and Statutory Planning Tel/Mob No: [Refused under Date: 14 June 2021	Approved by (SP) Name: Kerry Doss Division: Planning Group Tel/Mob No: [Refused under] 3452 [Refused under] Date: 25 June 2021	Director-General Endorsement Name: Damien Walker Signed Date: 25.6.2021
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Hon Steven Miles MP
Deputy Premier
Minister for State Development, Infrastructure,
Local Government and Planning

Our ref: MBN21/643

21 June 2021

1 William Street
Brisbane Queensland 4000
Email deputy.premier@ministerial.qld.gov.au

Mr Colin Jensen
Chief Executive Officer
Brisbane City Council
CEOOffice.BCC@brisbane.qld.gov.au

Dear Mr Jensen

In accordance with section 27(2) of the *Planning Act 2016* (the Planning Act), I hereby give you Notice that I intend to make Temporary Local Planning Instrument No. 2 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI) effective from the day it is published in the Queensland Government gazette.

The proposed TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* for the Colmslie Road Industry Precinct. A copy of the proposed TLPI is enclosed.

I consider that urgent action should be taken to protect, and give effect to, state interests in accordance with section 27(1) of the Planning Act. My reasons for taking this action are also enclosed.

If you require any further information regarding this matter, please contact Ms Danielle Cohen, Chief of Staff in my office, by email at danielle.cohen@ministerial.qld.gov.au or by telephone on (07) 3719 7100.

Your sincerely

A handwritten signature in blue ink, appearing to read "S. Miles".

STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

Enc (2)

cc The Right Honourable the Lord Mayor of Brisbane
Councillor Adrian Schinner
Brisbane City Council
Lord.Mayor@brisbane.qld.gov.au

TEMPORARY LOCAL PLANNING INSTRUMENT NO. 02 OF 2021

COLMSLIE ROAD INDUSTRY PRECINCT

Brisbane City Council City Plan 2014

1. Short Title

- 1.1 This Temporary Local Planning Instrument (TLPI) may be cited as Temporary Local Planning Instrument 02/21 – Colmslie Road Industry Precinct.

2. Overview

- 2.1 This TLPI provides an interim response to protect the Colmslie Road Industry Precinct (CRIP) from encroachment by inappropriate non-industrial uses.
- 2.2 This TLPI seeks to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC).
- 2.3 This TLPI recognises the importance of the CRIP as a regionally and locally significant industry area with high employment levels, containing diverse and economically significant industries and continuing to support long-standing and hard to locate industries.
- 2.4 In particular, this TLPI seeks to ensure development on land in the Industry zone within the CRIP is appropriately regulated to protect the integrity the Industry zone for new and existing industry uses and to ensure future uses will not result in reverse amenity impacts to existing and future industrial uses within the CRIP.
- 2.5 New non-industrial development and intensification of existing non-industrial development is not supported on land in the Industry zone within the CRIP, unless compliant with the TLPI.

3. Purpose of the TLPI

- 3.1 The purpose of the TLPI is to:
 - i. Continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area.
 - ii. Ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development.

- iii. Protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3.2 To achieve this purpose the TLPI:

- i. Suspends parts of the planning scheme, for development to which this TLPI applies.
- ii. Prescribes a category of assessment for development for a material change for the uses to which this TLPI applies.
- iii. Includes assessment benchmarks, for development to which this TLPI applies.

3.3 The purpose of the TLPI will be achieved through development that is consistent with the assessment benchmarks contained in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI).

4. Duration of this TLPI

4.1 This TLPI has effect for a period of two years from the effective date.

4.2 In accordance with section 9(3)(a) of the *Planning Act 2016*, the effective date for the TLPI is 29 June 2021.

5. Terms used in this TLPI

5.1 Sensitive use is as defined in section SC1.2.3 of the planning scheme.

5.2 Where a term used in a this TLPI is not defined, the term shall have the meaning assigned to it by:

- i. the *Brisbane City Plan 2014* (the planning scheme); or
- ii. the *Planning Act 2016* where the term is not defined in the planning scheme.

5.3 To the extent of any inconsistency between this TLPI and the planning scheme, the TLPI prevails.

6. Effect of this TLPI

6.1 This TLPI is a local categorising instrument under the *Planning Act 2016* which specifies the categories of assessment and sets out assessment benchmarks for assessing development.

6.2 This TLPI applies to land in the Industry zone within the CRIP identified in Figure A.

- 6.3 This TLPI applies to assessable development for a material change of use for all uses¹ other than for:
- i. Caretaker's accommodation
 - ii. Educational establishment for trade or industry related training where not involving overnight accommodation on premises
 - iii. Emergency services
 - iv. High impact industry
 - v. Low impact industry
 - vi. Marine industry
 - vii. Medium impact industry
 - viii. Park
 - ix. Renewable energy facility
 - x. Research and technology industry
 - xi. Service industry
 - xii. Special industry
 - xiii. Telecommunications facility (where not a broadcasting station or television station)
 - xiv. Utility installation
 - xv. Warehouse.
- 6.4 This TLPI does not apply to:
- i. accepted development for a material change of use
 - ii. development on land outside of the area within the CRIP identified in Figure A
 - iii. development in a zone other than the Industry zone.
- 6.5 The category of assessment for development for a material change of use to which this TLPI applies (in 6.3) is impact assessment where on land in the Industry zone identified within the CRIP in Figure A.
- 6.6 This TLPI suspends the following sections of the planning scheme when assessing a development application for development to which this TLPI applies:
- i. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO23 and AO23; and
 - ii. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO24 and AO24.
- 6.7 The assessment benchmarks applicable to a development application for development to which this TLPI applies, are set out in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI). These provisions apply in addition to the provisions in the planning scheme (unless stated otherwise).

¹ Use is defined under the *Planning Act 2016* to include an ancillary use of a premises.

Attachment A

Colmslie Road Industry Precinct Provisions

1. Compliance with the Colmslie Road Industry Precinct Provisions

- 1.1 Development that is consistent with the assessment benchmarks complies with the Colmslie Road Industry Precinct (CRIP) Provisions. Development that is inconsistent with these provisions constitutes undesirable development and is unlikely to be approved.

2. Purpose of the Colmslie Road Industry Precinct Provisions

- 2.1 The purpose of the CRIP Provisions is to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC) as a regionally and locally significant industry area, by:
 - i. protecting the integrity of land in the Industry zone for new and existing industry uses that provide economic benefits to the region and local area; and
 - ii. ensuring incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development; and
 - iii. protecting the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3. Assessment benchmarks

- 3.1 The purpose of the CRIP Provisions will be achieved through the following overall outcomes:
 - i. land in the Industry zone within the CRIP is used for new and existing industry uses; and
 - ii. land in the Industry zone within the CRIP is protected from use for inappropriate non-industrial activities; and
 - iii. non-industrial development that may result in reverse amenity impacts to industry uses does not locate on land in the Industry zone within the CRIP; and
 - iv. office uses do not locate on land in the Industry zone within the CRIP unless ancillary to an industrial use on the same site, such as an administrative area that directly supports the industrial use; and
 - v. indoor sport and recreation and outdoor sport and recreation uses do not locate on land in the Industry zone within the CRIP; and
 - vi. the only non-industrial uses contained on land in the Industry zone within the CRIP:

- a. are small-scale food and drink outlet or shop uses that provide business services and facilities that are necessary to support the industrial workforce within the CRIP or have a demonstrated direct nexus with industrial businesses; or
- b. do not involve a clustering of small non-industrial uses and do not locate in a catchment which is already serviced by an existing or approved non-industrial use; and
- c. are those needed to facilitate the economic growth and advancement of the industry uses within the CRIP; and
- d. do not adversely impact on the continued operation of nearby industrial uses or compromise the industrial function of the CRIP.

3.2 Development for a food and drink outlet:

- i. serves the local industrial workforce in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating or outdoor dining area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a food and drink outlet.

3.3 Development for a shop:

- i. serves the local industrial workforce or industry businesses in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a shop.

3.4 Development for any other use:

- i. has a clear nexus with and is necessary to support the viability of, and current and future operation of, industrial activities within the CRIP; and
- ii. does not include a sensitive use; and
- iii. specifically, does not involve an indoor sport and recreation or outdoor sport and recreation use.

Figure A – Colmslie Road Industry Precinct



Statement of Reasons

Statement of Reasons in respect of the decision by the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, made on 21 June 2021 under section 27 of the *Planning Act 2016* (Qld) (the Planning Act) to intend to make a Temporary Local Planning Instrument.

1 Decision

- 1.1 On 21 June 2021, I, the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, decided, in accordance with section 27 of the Planning Act, to give notice to the Brisbane City Council (the council) in accordance with section 27(2) of the Planning Act, that I intend to take action, namely, to make the Temporary Local Planning Instrument No. 02 of 2021 Colmslie Road Industry Precinct (the TLPI).
- 1.2 This TLPI provides an interim policy response to:
- (a) continue to protect the integrity of land in the Industry zone for new and existing industry uses and enable new investment in industry to occur within the Colmslie Road Industry Precinct (CRIP) to provide economic benefits to the region and local area
 - (b) ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
 - (c) protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
- 1.3 If made, the TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* (the planning scheme) as set out in the TLPI.
- 1.4 I am satisfied that the action I intend to take:
- (a) should be taken under section 26(2)(b) of the Planning Act to protect, or give effect to, a state interest and
 - (b) must be taken urgently.
- 1.5 The reasons for my decision are set out below.

2 Background

- 2.1 I was informed, by the Planning Assessment Report (PAR) prepared by the Department of State Development, Infrastructure, Local Government and Planning (the department) and provided to me as **Attachment 2** to the Briefing Note MBN21/643 as to background information relevant to my decision, relevant statutory provisions and the purpose and effect of the TLPI.
- 2.2 I particularly note the following, to which I had reference in making my decision:
- (a) the information contained in sections 1 – 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 2.3 The legislation and statutory instruments relevant to my decision are:
- (a) Planning Act
 - (b) Planning Regulation 2017

- (c) the planning scheme
 - (d) South East Queensland Regional Plan 2017 (*ShapingSEQ*) and the State Planning Policy (SPP).
 - 2.4 I note the following legislative provisions are relevant to my decision.
 - 2.5 Section 27 of the Planning Act applies if I consider that:
 - (a) action should be taken under section 26(2)(b) to protect, or give effect to, a state interest, and
 - (b) the action must be taken urgently.
 - 2.6 A 'state interest' is defined as an interest that I consider:
 - (a) affects an economic or environmental interest of the state or a part of the state or
 - (b) affects the interest of ensuring that the Planning Act's purpose is achieved.
 - 2.7 The purpose of the Planning Act is to '*establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability*'.
- Ecological sustainability is a balance that integrates—*
- (a) *the protection of ecological processes and natural systems at local, regional, State, and wider levels; and*
 - (b) *economic development; and*
 - (c) *the maintenance of the cultural, economic, physical and social wellbeing of people and communities.*
 - 2.8 Under section 8(2) of the Planning Act, the SPP and *ShapingSEQ* are state planning instruments which are made to 'protect or give effect to state interests'.
 - 2.9 The action which I may consider taking urgently under section 27 and 26(2)(b) of the Planning Act includes making a TLPI.
 - 2.10 Under section 27 I can, as Planning Minister, take this action to make a TLPI if under section 23(1) of the Planning Act, I am satisfied:
 - (a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area
 - (b) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk and
 - (c) the making of the TLPI would not adversely affect state interests.
 - 2.11 Under section 27(2) of the Planning Act, before taking action, I must give the relevant local government a notice that states:
 - (a) the action that I intend to take and
 - (b) the reasons for taking the action.
 - 2.12 Under section 27(3) of the Planning Act, after giving the relevant notice under the Planning Act, I may take the action as required under the process in the Minister's Guidelines and Rules (MGR) without:
 - (a) giving a direction to the local government under section 26 or
 - (b) consulting with any person before taking the action.

- 2.13 The MGR is made under section 17 of the Planning Act and include rules about making or amending TLPIs.
- 2.14 Section 10 of the Planning Regulation 2017 provides that the MGR are contained in the document called the 'Minister's Guidelines and Rules' dated September 2020, published on the department's website.
- 2.15 Chapter 3, Part 2 of the MGR prescribes the process for making or amending a TLPI for section 23 of the Planning Act.
- 2.16 A TLPI may suspend, or otherwise affect, the operation of another local planning instrument. However, a TLPI does not amend or repeal the instrument.

3 The evidence or other material on which findings on material questions of fact are based

- 3.1 In deciding that I intend to exercise my power under section 27 of the Planning Act, I had regard to the Briefing Note MBN21/643 and its attachments including the following documents:
- (a) the TLPI
 - (b) the PAR
 - (c) the draft Notice to the council
 - (d) this Statement of Reasons.

4 Findings on material questions of fact

- 4.1 I made the following findings of fact having regard to the evidence or other material as set out in Section 3 above.

Background information

- 4.2 I accept the information contained in the PAR, specifically:
- (a) the information contained in sections 1 to 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 4.3 More specifically, I made the following findings of fact having regard to the information provided in the PAR:
- (a) The CRIP contains an area of predominantly industrial zoned land located west of the Gateway Motorway in Murarrie, Morningside and Bulimba, in eastern Brisbane. The CRIP is part of the larger Australia TradeCoast Regional Economic Cluster (Australia TradeCoast REC), a major economic and employment precinct identified in the *ShapingSEQ*. The council identify that this REC contains more than 1,410 employing businesses accounting for approximately 8% of Brisbane's total employment and generating more than \$15 billion of exports in the 2016-17 financial year.
 - (b) The CRIP is part of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the Australia TradeCoast REC. The CRIP is strategically located within Brisbane and SEQ. It has good access to major arterial roads, direct river access and access to the Port of Brisbane, is easily accessible by a skilled workforce and is close to significant commercial centres.
 - (c) The CRIP primarily contains land uses defined as High, Medium and Low impact industry with some Warehouse and ancillary commercial office uses. Development in the CRIP is ongoing with several lots currently unimproved or underutilised.

- (d) Existing significant industrial uses in the CRIP are well established and hard to relocate. These industries have the potential to cause nuisance to communities through environmental emissions such as air, odour and noise pollution or risks to the health and safety of communities, which characteristics require these industry uses to be in locations which are well separated from sensitive land uses.
- (e) Established industry operators within the CRIP have written to the state and the council expressing a desire to invest and grow their businesses. These operators have cited encroaching non-industrial development as a constraint to further investment and growth which will compromise the intended function of the Murarrie/Colmslie MEIA.
- (f) On 9 November 2020, a development application for an Indoor sport and recreation facility at 500 Lytton Road and 32 Colmslie Road, Murarrie was approved by the council for a period of two years.
 - (i) The site is industrial zoned land within the CRIP boundary.
 - (ii) I was requested to call in the development application, and in its request the requestor raised concern:
 - (A) that the development would have a detrimental impact on the operation of its business as well as the operation of other industries in the major industry area and
 - (B) about ongoing urban development being approved by the council and encroaching on its existing facility.
- (g) On 22 January 2021, I decided not to call in the application.
- (h) This approval has been the subject of two Planning and Environment Court appeals [3451/20] and [23/21].
- (i) In considering this call in request, I considered that the approval and the council's assessment material relating to the application, as well as the appeals, identified significant planning issues relating to matters of state interest. Accordingly, I decided on 22 January 2021 to direct the council, in accordance with section 94 of the Planning Act, to provide me with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC for a period of twelve months.
- (j) The intent of this monitoring is to construct a fulsome picture of all relevant applications made to council so that I may be informed of the overall impact that applications the subject of the direction may have on the outcomes sought to be achieved for industrial land in the Australia TradeCoast REC.
- (k) Since the issuing of this direction to the council, 49 applications have been provided to me by the council. To date, nine of these applications relate to land within the CRIP boundary.
- (l) On 23 February 2021, the council also approved a code assessable development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie (land within the CRIP boundary). This application is the subject of current legal proceedings. This approval is the subject of representations made to me on 19 March 2021, seeking greater interventions from the State government to address non-industrial uses impacting the on-going viability of industry uses in the industry zone.
- (m) I am informed of the following other proponents who are considering establishing non-industrial uses on industrial zoned land within the CRIP:
 - (i) Published media reports promoting a proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie.

- (ii) Future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies, and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- (iii) Published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.
- (n) On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner wrote to me seeking support in protecting the long-term viability of the Australian Country Choice facility (located within the CRIP). The council recognised limitations of the current planning scheme in appropriately protecting industrial land and industrial land uses from incompatible development.
- (o) From 23 February 2021, departmental officers have engaged with council officers regarding progressing a council prepared TLPI.
- (p) On 19 May 2021, I met with Councillor Krista Adams, Deputy Mayor (accompanied by the Director-General and State Planner of the department and council's Chief Planner). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.
- (q) The council has since advised the department that they will not be progressing a TLPI to resolve the matter.
- (r) I have had regard to the department's assessment in the PAR of the relevant provisions of the planning scheme for the CRIP.
 - (i) Within the strategic framework of the planning scheme, the CRIP is located within the Major Industry Area. The intent of this Major Industry Area is to:
 - (A) protect existing industry uses from encroachment of non-compatible uses whilst promoting the colocation of business and administrative functions where directly related to the principal industrial use of the premises; and
 - (B) provide the principal regional activity centres for the city and provide high levels of employment through encouraging and accommodating economic activity.
 - (ii) Most of the land within the CRIP is contained within the Industry zone (General Industry A, B and C precincts) zones of the City Plan.
 - (A) The intent of the General Industry A zone precinct is for development to provide *'for low impact industry, service industry and warehouse uses' and to include 'a broad range of industry that is compatible with adjacent residential areas.'*
 - (B) The intent of the General Industry B zone precinct is for development to provide *'for low impact industry and medium impact industry.'*
 - (C) The intent of the General Industry C zone precinct is for development to provide *'for a range of high impact industry uses and compatible medium impact industry uses.'*
 - (iii) Specifically, the CRIP is located within and contains areas defined as the:
 - (A) River Gateway Neighbourhood Plan Area – NPP 005 – Industry
 - (B) Bulimba Districts Neighbourhood Plan Area.

- (s) Having regard to the department's assessment in the PAR, I am satisfied:
- (i) The planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process, as:
 - (A) The planning schemes overarching intent for the CRIP is to protect existing uses from encroachment of non-compatible uses. However, the overarching policy objectives are not able to be delivered through application of the more detailed provisions within the current planning scheme on a site-by-site application basis.
 - (B) The intent for the CRIP includes providing only for the number and scale of non-industrial uses needed to service the functioning of businesses and workforce within the area, however the scheme does not adequately provide for the assessment of these uses.
 - (C) The current planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses. These provisions do not provide for the assessment of the cumulative effect of multiple non-industrial uses within the industry area.
 - (D) The categories of development and assessment for non-industrial uses, such as Food and drink outlet and Shop within the CRIP, are code assessable where meeting gross floor area requirements. While the intent of these prescribed gross floor areas is to limit the scale of intended uses, outdoor dining areas are not included within the calculation of gross floor area and may significantly increase the anticipated scale of Food and drink outlet and Shop uses as demonstrated by recent and proposed development activity. The continued provision of outdoor dining areas will have the effect of increased reverse amenity impacts on established industrial uses in this area whilst cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
 - (E) The River gateway neighbourhood plan code does not contain assessment benchmarks relevant to non-industrial uses within the CRIP and therefore does not provide sufficient fine grain planning to ensure the ongoing industrial viability of this state-significant industry area.
 - (F) The Industry code does not provide assessment benchmarks relevant to other potentially incompatible non-industrial development, such as Indoor sport and recreation. Assessment of these uses currently relies on the overall outcomes contained within 6.2.5.2 Industry zone code which as does not provide sufficient clarity to applicants as to the intent for development in this area.
 - (ii) This has resulted in unintended non-industrial uses occurring in the CRIP;
 - (iii) The cumulative effect of non-industrial development will compromise the viability and integrity of the industrial zoned land in the CRIP.
- (t) I am further informed that the council is currently proposing to amend its planning scheme (package Amendment K) to better support the industrial economy and jobs and implement actions relating to the *Brisbane Industrial Strategy 2019*. It is not likely this amendment process will be completed within the next six months.
- (u) Finally, I have had regard to the department's assessment in the PAR of:
- (i) the Planning Act, SPP and *ShapingSEQ* provisions relating to state interests relevant to my decision

- (ii) the effect and purpose of the TLPI and
- (iii) the statutory requirements relevant to the exercise of my power under section 27 to make the TLPI.

5 Reasons for decision

- 5.1 I consider it is appropriate to and I intend to make the TLPI pursuant to section 27 of the Planning Act to suspend or otherwise affect the operation of the planning scheme for the following reasons.

Section 23(1)(a) of the Planning Act – Potential serious adverse economic impacts

- 5.2 I consider the limitations of the current planning scheme discussed in the PAR create a significant risk of serious adverse economic conditions happening in the local government area, for the following reasons:

- (a) I am satisfied that, having regard to the department's assessment of the current planning scheme provisions there is an immediate and increasing risk to the protection of industrial uses on industrial land within the CRIP as well as the effective regulation and assessment of non-industrial development in the CRIP as:
 - (i) the current planning provisions do not appropriately protect the achievement of the economic outcomes identified in *ShapingSEQ*;
 - (ii) the planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process;
 - (iii) the existing categories of assessment, strategic outcomes and assessment benchmarks are allowing unintended non-industrial uses to be approved in industrial area zones at a scale that is compromising the future viability of existing industry uses and for continued industrial activities in the CRIP area;
 - (iv) the council has written to me acknowledging that the planning scheme cannot guarantee future uses in this area will not result in reverse amenity impacts to existing industrial uses.
- (b) I am satisfied that the encroachment of non-industrial development is a constraint to further investment in and growth of industrial activities. I consider these conclusions are supported by the representations made to me and the department about the approval of non-industrial uses in the CRIP, as set out in the PAR.
- (c) Consequently, I am satisfied that the achievement of the economic outcomes planned for the CRIP, as evidenced in *ShapingSEQ* is being put at significant risk, as the development assessment system cannot function or is unlikely to function to achieve the planned economic outcomes for the area, and presents a significant risk of serious adverse economic conditions happening in the CRIP in regard to the ongoing viability of industrial uses on industrial land.

Section 23(1)(b) of the Planning Act – Increased Risk

- 5.3 I am informed by the department, as set out in the PAR, that:
- (a) Amending the planning scheme in accordance with the Planning Act would take the council a significant amount of time to complete because the planning issues are complex and there is likely to be significant stakeholder interest in any planning scheme amendment proposed by the council.
 - (b) In amendments to its planning scheme currently underway, the council has recognised a need to strengthen strategic provisions throughout its planning scheme to ensure incompatible uses do not encroach on industrial land, and to clarify what uses may be considered as appropriate

supporting uses on industrial land. However, this amendment process is yet to progress to public consultation and is likely at least six months away from completion and implementation.

- (c) Development applications involving non-industrial uses are being lodged in the CRIP area, with the department informing me:
 - (i) there have been at least nine such development applications lodged with the council since 25 January 2021 and
 - (ii) there are future significant non-industrial development applications likely to be lodged within the CRIP, as detailed in the PAR.

5.4 On this basis, I am satisfied the delay involved in using the planning scheme amendment process in sections 18 to 22 of the Planning Act would increase the risk identified above, as the planning scheme as it stands:

- (a) continues to allow the approval of incompatible non-industrial uses which will compromise the effective regulation of development in the CRIP, and which will continue until the scheme provisions are appropriately amended to align them with *ShapingSEQ* and
- (b) consequently, creates current and ongoing uncertainty for current and future investment in existing and new industrial development within the CRIP.

Section 23(1)(c) of the Planning Act – No adverse affect on state interests

5.5 I have had regard to the department's assessment of the proposed TLPI against relevant state interests as articulated in *ShapingSEQ* and the SPP and the department's conclusion that no adverse effect on any state interest would result from the making of this TLPI.

5.6 On this basis, I am satisfied that making the TLP would not adversely affect any state interest.

Section 27 of the Planning Act

5.7 I note that section 27 of the Planning Act allows me as the Planning Minister to make a TLPI where I consider:

- (a) the action should be taken to protect or give effect to a state interest and
- (b) the action must be taken urgently.

5.8 I further note that a 'state interest' is defined as an interest that I consider:

- (a) affects an economic or environmental interest of the state or a part of the state or
- (b) affects the interest of ensuring that the Planning Act's purpose is achieved.

5.9 I consider for the reasons detailed below, that the requirements set out in section 27 of the *Planning Act 2016* are met as:

- (a) The TLPI should be made to protect or give effect to the state interest outlined below and
- (b) The TLPI should be made urgently.

State Interest

5.10 The purpose of the Planning Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability.

5.11 Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, state, and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

5.12 Having regard to the department's assessment in the PAR, I consider the TLPI should be made to protect or give effect to the state interest of ensuring that the Planning Act's purpose is achieved, for the following reasons:

- (a) I am informed that the CRIP is a strategically located area, recognised as a major driver of economic growth in South East Queensland by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*.
- (b) I am informed the continued operation of appropriately established industrial development is of importance to the state, as reflected in the SPP and *ShapingSEQ*. Additionally, protecting core components including MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.
- (c) I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to the continuation of significant industrial uses on industry zoned land in the CRIP boundary, whereby the planning scheme does not have appropriate planning controls to protect this recognised industrial area from encroachment by inappropriate non-industrial uses. This conclusion is supported by the recent approval of non-industrial uses in the CRIP.
- (d) I am satisfied that immediate amendments are needed to these provisions in the existing planning scheme, to protect and give immediate effect to the purpose of the Planning Act to establish and therefore maintain, an accountable, efficient and effective land use planning and development assessment system. That is, a development assessment system that can:
 - (i) achieve the development outcomes planned for the CRIP identified in *ShapingSEQ* and the SPP and
 - (ii) facilitate the achievement of the economic outcomes set for the area by *ShapingSEQ*.
- (e) I am satisfied the proposed TLPI will protect and give effect to this state interest by:
 - (i) altering the level of assessment for certain non-industrial uses from code assessment to impact assessment, thereby providing a more appropriate assessment framework for non-industrial uses where on industrial zoned land in the CRIP
 - (ii) introducing new assessment benchmarks for assessable development for a non-industrial use on industrial zoned land, to support the planning outcomes sought for the CRIP and
 - (iii) suspending the application of certain performance and assessment outcomes in the scheme, that do not appropriately support the intended outcomes for the CRIP.
- (f) Collectively, the provisions within the TLPI will ensure:
 - (i) accountable, effective and efficient assessment of proposed non-industrial development in the CRIP
 - (ii) the economic outcomes for the CRIP set out in *ShapingSEQ* are achieved.

Urgency

- 5.13 I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes identified for the CRIP by *ShapingSEQ*. Recent development assessment decisions made by the council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulate manner across the CRIP.
- 5.14 I am satisfied that the need for urgent action in this area is demonstrated by the department's understanding that there are proponents who are considering establishing significant non-industrial uses on industry zoned land within the CRIP. This includes the Brewdog hotel proposal and future development at The Depot and Heritage Quarter as part of the Rivermakers development.
- 5.15 I am satisfied that there is a significant likelihood that further non-industrial development will increasingly continue to occur in this area and the decision of the council to not take immediate action by progressing a council prepared TLPI, significantly increases the risk of serious adverse economic conditions resulting from further non-industrial development cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
- 5.16 I am satisfied that these issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.
- 5.17 The proposed TLPI is an appropriate instrument that can address these issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.
- 5.18 On this basis, I consider it is necessary to urgently implement the TLPI.

Dated this 21 day of June 2021



STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning




Hon Steven Miles MP
Deputy Premier
Minister for State Development, Infrastructure,
Local Government and Planning

Our ref: MBN21/698

1 William Street
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Email deputy.premier@ministerial.qld.gov.au

29 JUN 2021

Mr Colin Jensen
Chief Executive Officer
Brisbane City Council
CEOOffice.BCC@brisbane.qld.gov.au

Dear Mr Jensen 

I wish to advise I have exercised my powers under section 27 of the *Planning Act 2016* (the Planning Act) and I have made the Temporary Local Planning Instrument No. 2 of 2021 – Colmslie Road Industry Precinct (the TLPI) effective from the day it is published in the Queensland Government gazette. The Department of State Development, Infrastructure, Local Government and Planning (the department) will provide you with a copy of this public notice.

The TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* for the Colmslie Road Industry Precinct for a period of two years. A copy of the proposed TLPI is enclosed.

I expect Brisbane City Council to undertake the necessary studies and public consultation with the community to inform an amendment to the planning scheme that balances the range of community and commercial interests present in the identified Colmslie Road Industry Precinct. I support that officers from Planning Group in the department, and council officers from the City Planning team will continue discussions relating to these actions.

If you require any further information regarding this matter, please contact Ms Danielle Cohen, Chief of Staff in my office, by email at danielle.cohen@ministerial.qld.gov.au or by telephone on (07) 3719 7100.

Your sincerely



STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

Enc

cc The Right Honourable, the Lord Mayor of Brisbane
Councillor Adrian Schinner
Brisbane City Council
Lord.Mayor@brisbane.qld.gov.au

Notice to be published in the Queensland Government Gazette:

Planning Act 2016

**NOTICE OF THE MAKING OF TEMPORARY LOCAL PLANNING INSTRUMENT No. 2 of 2021 –
COLMSLIE ROAD INDUSTRY PRECINCT (TLPI 02/2021)**

BRISBANE CITY COUNCIL LOCAL GOVERNMENT AREA

I, the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, notify that I have made TLPI 02/2021 in accordance with section 27(3) of the *Planning Act 2016* and the Minister's Guidelines and Rules September 2020. TLPI 02/2021 will have effect on 29 June 2021 and will have effect for a period of two years unless repealed sooner.

Purpose and General Effect

TLPI 02/2021 is a temporary local planning instrument under section 23 of the *Planning Act 2016*. Under section 23(3) of the *Planning Act 2016*, a temporary local planning instrument may suspend or otherwise affect the operation of another local planning instrument but does not amend or repeal the instrument.

The purpose of TLPI 02/2021 is to:

- continue to protect the integrity of land in the Industry zone within the area identified as the Colmslie Road Industry Precinct (CRIP) for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area
- ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
- protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

Location of Area to which TLPI 02/2021 Applies

TLPI 02/2021 applies only to part of the Brisbane City Council local government area, namely the land identified as within the TLPI boundary on the CRIP which is shown in Figure A of the TLPI.

Further Information

Copies of TLPI 02/2021 are available from the Policy and Statutory Planning Division, within the Department of State Development, Infrastructure, Local Government and Planning's Brisbane office at Level 13, 1 William Street, Brisbane 4001. TLPI 02/2021 can also be viewed online at planning.dsdmip.qld.gov.au/tlpi under 'Planning for emergent issues – TLPIs'.

For more information please either visit the council's Customer Service Centre or telephone Policy and Statutory Planning Division, Department of State Development, Infrastructure, Local Government and Planning on (07) 3452 7668.

STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

ATTACHMENT 2

PLANNING ASSESSMENT REPORT

MINISTER TO TAKE URGENT ACTION AND MAKE TLPI No. 2 OF 2021 – COLMSLIE ROAD INDUSTRY PRECINCT

BRISBANE CITY COUNCIL

Instrument	<ul style="list-style-type: none">Proposed Temporary Local Planning Instrument No. 02 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI) to the <i>Brisbane City Plan 2014</i> (the planning scheme)
Summary	<ul style="list-style-type: none">The large areas of contiguous industry zoned land along Lytton Road in Bulimba, Morningside and Murarrie (west of the Gateway Bridge) form part of the Australia TradeCoast Regional Economic Cluster (Australia TradeCoast REC), a major economic and employment precinct in the South East Queensland Regional Plan 2017 (<i>ShapingSEQ</i>).These industry zoned areas form the majority of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the Australia TradeCoast REC.These industry zoned areas are strategically located within Brisbane and SEQ. The area has good access to major arterial roads, direct river access and access to the Port of Brisbane, is easily accessible by a skilled workforce and is close to significant commercial centres.Industrial landowners and operators of significant industrial uses within this area have written to the state and the council expressing a desire to invest and grow their businesses. These letters have cited encroaching non-industrial development as a constraint and significant risk to this investment and growth.On 9 November 2020, a development application for an Indoor sport and recreation facility at 500 Lytton Road and 32 Colmslie Road, Murarrie was approved by the council within the Murarrie/Colmslie MEIA.On 10 November 2020, a request was made to the Planning Minister to exercise powers under the <i>Planning Act 2016</i> (the Planning Act) to call in this development application.On 22 January 2021, this call in request was considered by the Planning Minister who decided not to give a proposed call in notice.In considering this request, the Planning Minister decided to direct Brisbane City Council (the council), in accordance with section 94 of the Planning Act, to provide him with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC. This decision was gazetted on 25 January 2021.The intent of this monitoring is to construct a fulsome picture of all relevant applications made to the council (including changes to current approvals), to provide a better understanding of the overall impact that non-industrial land uses may have on the continued operation of existing industry and to the supply of industrial land in the Australia TradeCoast REC.Since the issuing of this direction to the council, forty-nine (49) applications have been provided to the Planning Minister by the council. To date, nine (9) of these applications are within the Murarrie/Colmslie MEIA.On 23 February 2021, the council also approved a code assessable development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie. This application was made to the council prior to the issuing of the section 94 direction to the council by the Planning Minister on the 25 January 2021.This approval has been the subject of representations made to the Planning Minister on 19 March 2021, seeking greater interventions from

the state government to address non-industrial uses impacting the ongoing viability of industry uses in the Industry zone.

- The Indoor sport and recreation facility application approved on the 9 November 2020 and the High impact industry (brewery) and Food and drink outlet application approved on 23 February 2021 have both been subject to legal disputes initiated by industry operators within the Murarrie/Colmslie MEIA. The action relating to the High impact industry (brewery) and Food and drink outlet application was dismissed on 4 June 2021, while the Indoor sport and recreation facility action dispute is ongoing.
- On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner, wrote to the Planning Minister affirming the council's support and recognition of the strategic importance of the Australia TradeCoast REC but acknowledging that the planning scheme cannot guarantee future uses in this area will not result in reverse amenity impacts to existing industrial uses.
- The council have, therefore, acknowledged that the existing planning scheme may be inadequate in protecting existing industrial uses from the impacts of encroaching non-industrial uses thereby potentially comprising the strategic importance and intent of the Australia TradeCoast REC.
- As part of its monitoring of applications being sent to the Planning Minister under the section 94 direction, the department has been reviewing the current planning scheme provisions applicable to the above assessment of non-industrial uses in the Murarrie/Colmslie MEIA and the broader Australia TradeCoast REC and other relevant provisions. This review has found that the existing planning scheme provisions which to facilitate appropriate industrial development in the Australia TradeCoast REC, present an immediate and ongoing risk to the continuation of significant existing and new industrial uses on industry zoned land in the Murarrie/Colmslie MEIA.
- The council is currently undertaking an amendment of its planning scheme under section 18 of the Planning Act – Tailored Amendment Package K (Amendment K) aims to implement the findings of the *Brisbane Industrial Strategy 2019*, and seeks to introduce additional assessment benchmarks for small-scale non-industrial uses in industrial zoned land to reduce the impact and likelihood of appreciable and cumulative encroachment of these uses into industrial zoned land. Amendment K is currently with the council to commence public consultation and will be subject to further state government review likely to commence in late 2021.
- The overarching planning policy objectives relevant to the subject area are not able to be delivered through application of the current scheme on a site-by-site application basis. The cumulative effect of these existing approvals coupled with developer intent and proposed future uses will compromise the viability and integrity of the industrial zoned land in the MEIA. Limitations of the planning scheme include the assessment benchmarks contained in the Industry zone code and Industry code, and the relevant neighbourhood plan codes.
- The council has since advised that it will not be progressing a TLPI to resolve this matter
- The department is of the view that immediate action is, therefore, required to improve these assessment benchmarks in the planning scheme to establish a more appropriate regulatory framework for the regulation of non-industrial land uses within this significant and strategically important area of Industry zone land, so that the planning scheme provides certainty for existing and new industrial use businesses and jobs within the Murarrie/Colmslie MEIA.

	<ul style="list-style-type: none"> It is proposed to urgently implement a Temporary Local Planning Instrument (the proposed TLPI) to the <i>Brisbane City Plan 2014</i> (the planning scheme), over an area of predominantly industry zoned land located west of the Gateway Motorway at Murarrie, Morningside, and Bulimba in eastern Brisbane described as the Colmslie Road Industry Precinct (CRIP).
TLPI policy intent	<ul style="list-style-type: none"> The purpose of the TLPI is to: <ul style="list-style-type: none"> continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
Recommendation	<p>That:</p> <ul style="list-style-type: none"> the Planning Minister decides to make a TLPI in the form proposed and for the reasons set out in this report notice of the Planning Minister's making of a TLPI be given to the council as required by the Planning Act.

2. RELEVANT LEGISLATIVE PROVISIONS

In accordance with Section 23 of the Planning Act, a temporary local planning instrument (TLPI) can be made where the following matters are satisfied:

- there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area and
- the delay involved in using the process in sections 18 and 20 of the Planning Act to make or amend another local planning instrument would increase the risk and
- the making of the TLPI would not adversely affect state interests.

Section 27 of the Planning Act allows the Planning Minister to make a TLPI where the Planning Minister considers:

- the action should be taken to protect or give effect to a state interest; and
- the action must be taken urgently.

A state interest is defined in the Planning Act as:

State interest means an interest that the Minister considers—

- affects an economic or environmental interest of the State or a part of the State; or
- affects the interest of ensuring this Act's purpose is achieved.

The purpose of the Planning Act (per section 3(1)) is:

*The purpose of this Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning (**planning**), development assessment and related matters that facilitates the achievement of ecological sustainability.*

Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, State, and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

A TLPI is a local planning instrument that may suspend or otherwise affect the operation of another local planning instrument. The TLPI, however, does not amend or repeal the instrument.

3. BACKGROUND

3.1 Site location and regional context

The CRIP contains an area of predominantly industrial zoned land located west of the Gateway Motorway in Murarrie, Morningside and Bulimba, in eastern Brisbane. An aerial image of the general area and the boundary of the proposed TLPI are shown in **Figure 1** below.

The CRIP is located 15 minutes by road from the Port of Brisbane, no more than 5 minutes from access to the Gateway Motorway, 10 minutes from the Brisbane International Airport and 6 kilometres from the Brisbane CBD. It is close to an existing skilled workforce, commercial centres and supply networks, and is well serviced by transport networks, electricity, water, sewer and other utility services.



Figure 1: Boundary of the proposed TLPI Area

The CRIP is part of the larger Australia TradeCoast REC that includes land located in the Brisbane suburbs of Eagle Farm, Hemmant, Lytton, Geebung, Northgate and Banyo. The Australia TradeCoast REC is conceptual in spatial representation and does not apply to specific parcels of land. The CRIP is bounded to the north by the Brisbane River, to the east by the Sir Leo Hielscher Bridges of the Gateway Motorway, to the south by Lytton Road, and to the west by Taylor Street, Bulimba.

The CRIP is partly located in areas identified on the department's State Planning Policy Interactive Mapping System (SPP IMS) as containing:

- Matters of State Environmental Significance (MSES) – wildlife habitat (endangered or vulnerable, special least concern animal, koala habitat areas – core and locally refined), regulated vegetation (category B) and high ecological significant wetlands

- coastal management district as declared under the *Coastal Protection and Management Act 1995* (the Coastal Act)
- the Commonwealth Acetate of Lime Factory (former)) Queensland state heritage place located at 82 Colmslie Road, Morningside
- high and medium potential bushfire intensity areas
- erosion prone and medium and high storm tide inundation areas
- strategic port land as defined under the *Transport Infrastructure Act 1994* (the TIA)
- major electricity infrastructure (operated by Energex Limited) and an existing Energex substation at 512 Lytton Rd, Morningside.

Land within the CRIP is predominantly contained within the Industry zone of the planning scheme. Land to the south of Lytton Road is within the Low impact industry, Open space and Low-density residential zones. The CRIP primarily contains land uses defined as High, Medium and Low impact industry. Development in the CRIP is ongoing with several lots currently unimproved or underutilised. (refer to **Figure 2** below for the current zoning).

Existing businesses within the CRIP include Queensland Bulk Terminals (subsidiary of Wilmar Trading Australia Pty Ltd), Australian Country Choice Group Abattoir, Bidfood Food Wholesaler and Distributor, and Raptis Seafood Market.

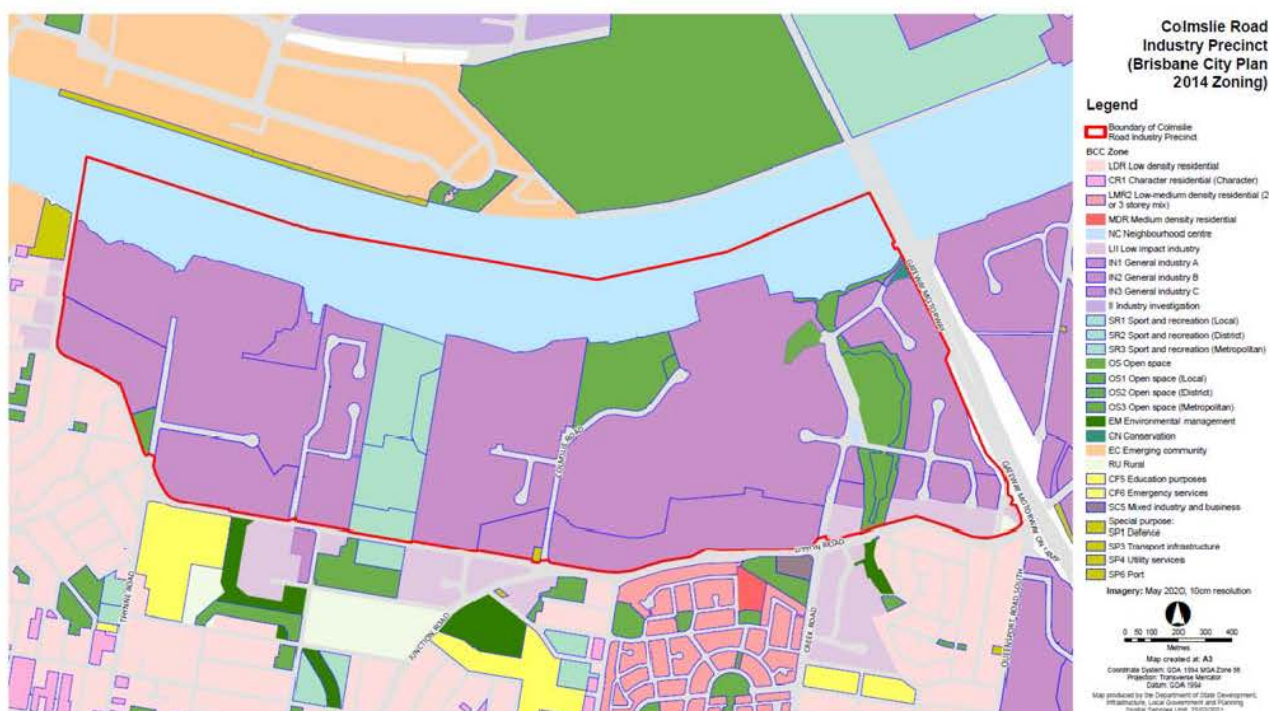


Figure 2: Current planning scheme zoning and boundary of the proposed TLPI Area

3.2 History

The Australia TradeCoast REC represents one of SEQ's most significant existing industrial agglomerations. The Australia TradeCoast REC contains specialised sectors including aviation and aerospace, food and innovative manufacturing, shipping and marine, transport and logistics, and tourism.

This REC is supported by major supply chain networks that service not only the region but the entire state, interstate and international markets.

The CRIP is part of the Australia TradeCoast Regional Economic Cluster (REC), a major economic and employment precinct in *ShapingSEQ*. This REC contains more than 1410 employing businesses

accounting for approximately 8% of Brisbane's total employment and generating more than \$15 billion of exports in the 2016-17 financial year¹.

The CRIP is part of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the REC. The CRIP is strategically located within the REC and has good access to major roads, ports, a skilled workforce, and commercial centres. The extent of the Australia TradeCoast REC relevant to the CRIP area in Murarrie/Colmslie is shown in **Figure 3** below.

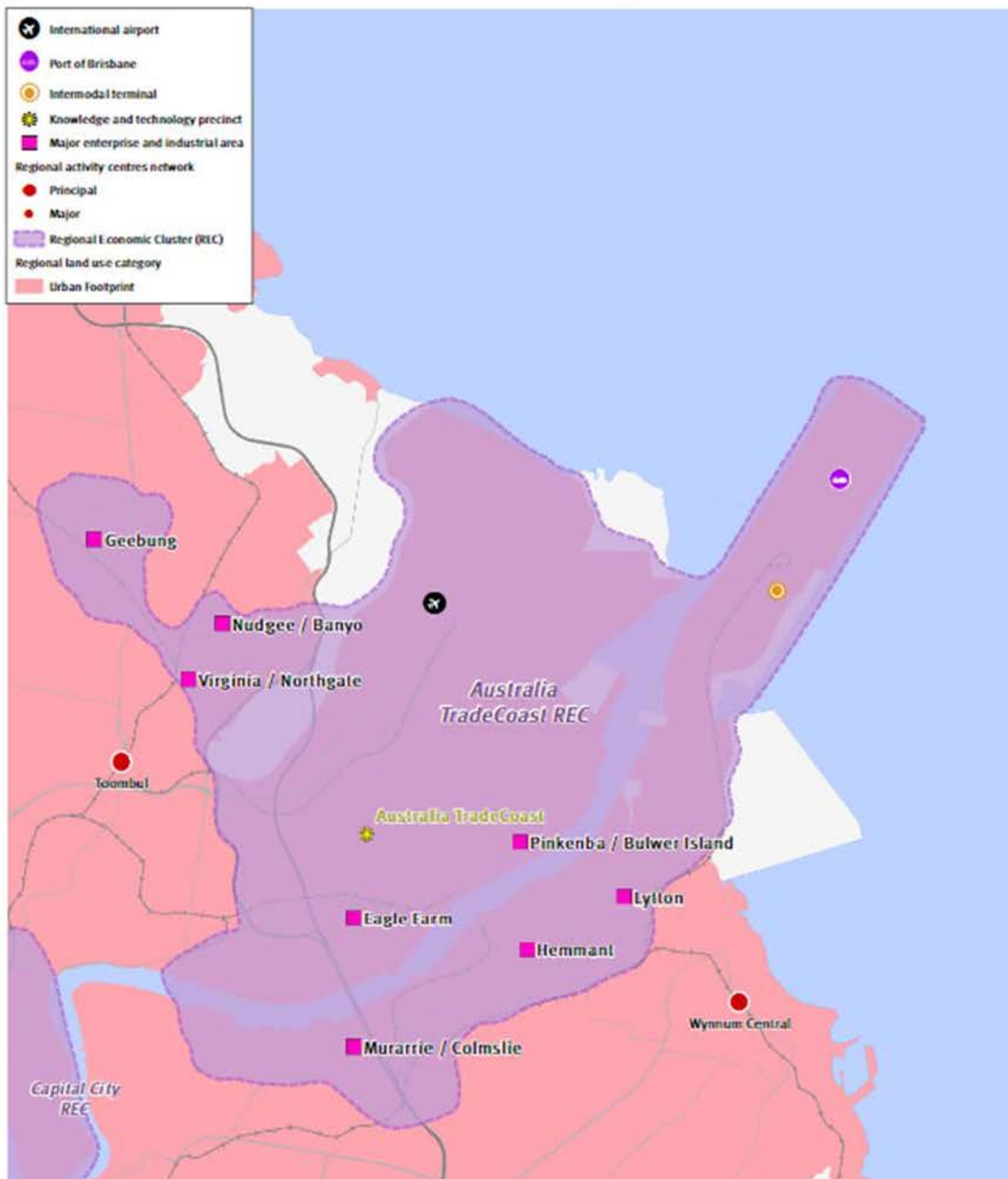


Figure 3: Extent of the Australia TradeCoast REC

Existing significant industrial uses in the CRIP are well established and hard to relocate. Hard-to-locate industries typically require locations which are well separated from sensitive land uses due to their potential for significant impacts. These industries have the potential to cause nuisance to communities through environmental emissions such as air, odour and noise pollution or risks to the health and safety of communities. These characteristics make High and medium impact industries difficult or hard-to-locate. The CRIP area contains zones intended to accommodate hard-to-locate industries. For example, Australian Country Choice (ACC) occupies a site that has been utilised as an abattoir since the 1930s. The company has informed the department that it has undertaken more

¹ Brisbane City Council website: <https://www.brisbane.qld.gov.au/about-council/governance-and-strategy/business-in-brisbane/growing-brisbanes-economy/opportunity-brisbane/australia-trade-coast>

than \$200 million in upgrades and efficiency improvements to its operations since relocating to this site in 2000.

Established industry operators within the CRIP have written to the state and the council expressing a desire to invest and grow their businesses. These operators have cited encroaching non-industrial development as a constraint to further investment and growth and which compromises the intended function of the Murarrie/Colmslie MEIA.

3.2.1 10 November 2020 – call in request

On 29 April 2020, Rivermakers Wellness and Research Centre Pty Ltd made a development application for a Material Change of Use for Indoor Sport and Recreation and Health Care Facility at 32 Colmslie Road and 500 Lytton Road, Morningside.

The proposed Indoor sport and recreation facility (gym) is on industrial-zoned land adjacent to the ACC abattoir on Colmslie Road which is one of the largest meat processing facilities in Queensland. ACC's abattoir was subject to a previous ministerial call in when locating to the site on 29 February 2000.

On 9 November 2020, the council approved the subject application despite apparent conflicts with the planning scheme including the appropriateness of the use in the location and the protection of the ongoing viability of industrial areas. This approval is for a development permit for material change of use for indoor sport and recreation, being a non-industrial use on land in the Industry zone within the Australia TradeCoast REC. The approval contained conditions which intend to limit the use of the premises to operating for two years. This approval is currently the subject of two Planning and Environment Court appeals [3451/20] and [23/21].

On 10 November 2020, a request was made by ACC to the former Planning Minister, the Honourable Cameron Dick MP, to call in the development application.

ACC raised concerns that the approved development will have a detrimental impact on the operation of the abattoir as well as the operation of other industries in the major industry area. Furthermore, ACC expressed concern about ongoing urban development being approved by the council and encroaching on its existing facility. ACC cite these concerns as a reason to reconsider the further injection of capital and provision of infrastructure at this facility.

On 22 January 2021, the Planning Minister decided not to exercise his power to call in the development application.

3.2.2 Section 94 direction

In considering the above call in request the Planning Minister noted the council's approval and the assessment material relating to the application, as well as the subsequent appeals, identified significant planning issues relating to matters of economic and environmental importance to the State and matters relating to ensuring the purpose of the Planning Act is achieved.

On 22 January 2021, the Planning Minister also decided to direct the council, in accordance with section 94 of the Planning Act, to provide the Planning Minister with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC for 12 months.

The intent of this monitoring is to construct a more fulsome picture of all relevant applications made to the council in this area, to inform the Planning Minister of the overall impact that applications of this type may have on the outcomes sought to be achieved for industry zoned land within the REC, and to allow the Planning Minister to take further advice on the applications received under the direction.

In issuing the section 94 direction, the Planning Minister considered that:

- the continued operation of appropriately established industrial development is of importance to the state, as reflected in the State Planning Policy 2017 (the SPP) and *ShapingSEQ* and
- protecting core components including MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.

The Planning Minister in making this decision also considered the council assessment report which recognised conflicts with several assessment benchmarks within the planning scheme. Council determined these conflicts were not significant enough to warrant refusal of the application. The council assessment report identifies the development application conflicted with the overall outcomes and the purpose of both the Industry zone and Indoor sport and recreation zone codes.

Since issuing this direction to the council, 49 applications have been provided to the Planning Minister by the council. To date, nine of these applications are located in the CRIP.

3.3.3 Subsequent non-industrial development approvals

On 23 February 2021, the council approved a development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie within the CRIP.

Council's approval has been the subject of representations made to the Planning Minister on 19 March 2021, seeking greater interventions from the state government to address non-industrial uses impacting the on-going viability of industry uses in the industry zone. Suggested interventions within this representation included that the Planning Minister use powers under the Planning Act to call in the above development application or direct the council to introduce a TLPI.

On 31 March 2021, the Planning Minister decided not to call in the above application.

The High impact industry (brewery) and Food and drink outlet approval was subject to legal dispute initiated by landowners and industry operators within the CRIP. This matter related to the correct categorisation and scale of the use and its consequent category of development and assessment on this premises, rather than the appropriateness of the non-industrial use within the industry area. This matter was resolved on 4 June 2021 by the Planning and Environment Court by dismissing the action.

The department is aware of other proponents who are considering establishing non-industrial uses on industrial zoned land within the CRIP such as:

- Published media reports promoting a proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie.
- Future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies, and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- Published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working with BMI to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.

Recent and projected development activity in the CRIP demonstrates an intensification of non-industrial uses on industry zoned land. This situation, and recent approvals given by the council, has provided an opportunity for unintended non-industrial uses to be seen to be broadly supported by the council and its planning scheme.

3.3.4 Response to local government plan-making actions and local government consultation

On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner wrote to the Planning Minister seeking support in protecting the long-term viability of the ACC facility. In this letter council recognised the limitations of the current planning scheme in appropriately protecting industrial land and industrial land uses from incompatible development and flagged the council's intention to investigate options to amend this deficiency (see below excerpt):

"Council cannot guarantee that future uses developed in the adjoining area will not result in reverse amenity impacts and we are investigating further measures to protect the facility."

Council have acknowledged that the existing planning scheme is inadequate in protecting existing industrial uses from the impacts of encroaching non-industrial uses thereby potentially comprising the strategic importance and intent of the Australia TradeCoast REC.

The council have also undertaken work to progress planning scheme amendments that relate to resolving this above issue across the broader local government area and deliver implementation actions that have been identified in council's *Brisbane Industrial Strategy 2019*. See section 4.2 below for further details about these proposed amendments.

3.3.4.1 Council proposed TLPI

On 26 March 2021, the Planning Minister responded to Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner, suggesting that the council could implement a TLPI to address the issues raised in the 23 February 2021 letter. This correspondence also advised that in the absence of the council taking action the Planning Minister would consider introducing a state sponsored TLPI.

On 30 March 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner responded to the 26 March 2021 letter. The 30 March 2021 letter did not confirm whether the council would or would not propose a TLPI to address the concerns in the CRIP.

On 31 March 2021, council officers indicated a preference to work with Planning Group officers to fast-track the implementation of an existing proposed amendment to the *Brisbane City Plan 2014*, Major amendment package K – Other (Amendment K). The department considers this action would not resolve the immediate significant risk of serious adverse economic conditions happening in the local government area due to a delay associated in finalising the proposed amendment. Additionally, if expedited, in its current form the proposed amendment would not adequately protect the ongoing viability of industrial uses within the CRIP. The department's consideration and explanation of Amendment K as it relates to the CRIP is contained in section 4.2 of this report.

On 19 April 2021, council officers were provided with a copy of the department prepared TLPI for the purpose of consultation and review.

On 30 April 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner, advised that the council cannot support and would not be progressing the department prepared TLPI and indicated the council would prefer to explore a TLPI based on Amendment K as an appropriate way of resolving issues facing premises in the CRIP. Councillor Schrinner's letter provided reasons for this position which the department has used to update the department prepared TLPI.

On 19 May 2021, a meeting occurred between the Deputy Premier and Councillor Krista Adams, Deputy Mayor of the council (accompanied by the Director-General and State Planner as well as senior council planning officers). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.

The council has since advised that it will not be progressing a TLPI to resolve this matter.

3.3.4.2 Compliance

On 13 May 2021, Mr Damien Walker, Director-General of the department received correspondence from Refused under section of ACC regarding a development application for retrospective building works and site preparation at 82-90 Colmslie Road, Murarrie. This retrospective approval is being sought to "facilitate the overall master plan strategy for Rivermakers Heritage Quarter" and is directly adjacent to the approved Revel Brewing Facility.

The Rivermakers Heritage Quarter is understood to comprise up to 10 existing buildings including the Queensland heritage place known as the Commonwealth Acetate of Lime Factory (former). It is understood that the Rivermakers Heritage Quarter is to become the centre of a "*vibrant food and beverage hub*" open to the public. The development of a significant food and beverage hub on this site, beyond the approved Revel Brewing Co. land use, constitutes further encroachment of significant non-industrial uses on industry zoned land. Development activity on this site is ongoing.

The department has also recently received several complaints about the operation of tenancies within the area known as the Rivermakers Centre at Morningside. After further investigating these complaints, departmental officers hold concerns around several non-industrial uses within the Rivermakers Centre that do not appear have the necessary approvals to operate.

On 7 May 2021, Mr Damien Walker Director-General of the department wrote to Mr Colin Jensen, Chief Executive Officer of the council to seek the council's assistance to further investigate and ensure tenancies within this centre are operating lawfully given the significant volume of the potential non-compliance which has been identified. In an emailed reply from the council on 17 May 2021, it confirmed that two unlawful uses have been determined to be occurring in this area, with investigations ongoing into two additional tenancies and their uses.

4. BRISBANE CITY COUNCIL CITY PLAN 2014

4.1 Current planning scheme considerations

The planning scheme commenced on 30 June 2014 under the now repealed *Sustainable Planning Act 2009*. The planning scheme was aligned with the Planning Act in July 2017.

Within the strategic framework of the planning scheme, the CRIP is located within the Major Industry Area. The intent of this Major Industry Area is to:

- protect existing uses from encroachment of non-compatible uses whilst promoting the colocation of business and administrative functions where directly related to the principal industrial use of the premises and
- provide the principal regional activity centres for the city and provide high levels of employment though encouraging and accommodating economic activity.

Most of the land within the CRIP is contained within the Industry zone (General Industry A, B and C precincts) of the City Plan.

- The overall outcomes for the location of development and uses within the Industry zone include that '*Development protects the viability of existing and future industry by excluding incompatible development*'.
- The intent of the General Industry A zone precinct is for development to provide '*for low impact industry, service industry and warehouse uses*' and to include '*a broad range of industry that is compatible with adjacent residential areas.*'
- The intent of the General Industry B zone precinct is for development to provide '*for low impact industry and medium impact industry.*'
- The intent of the General Industry C zone precinct is for development to provide '*for a range of high impact industry uses and compatible medium impact industry uses.*'

Unforeseen non-industrial uses within the above zone precincts are generally impact assessable within the planning scheme and will require assessment against the entirety of the scheme.

Specifically, the CRIP is located within and contains areas defined as the:

- River Gateway Neighbourhood Plan Area – NPP 005 – Industry
- Bulimba Districts Neighbourhood Plan Area.

The River Gateway and Bulimba Districts neighbourhood plans prescribe additional assessment benchmarks for assessable development in these areas. These neighbourhood plans do not change the category of assessment applicable to non-industrial development within the CRIP.

Refer to **Figure 3** above for the current planning scheme zoning map.

Levels of assessment and most assessment benchmarks relating to development that is a material change of use are mostly contained within the relevant zone and development codes. The relevant zone and development codes include:

- 6.2.5.2 – Industry Zone Code
- 7.2.18.3 – River Gateway Neighbourhood Plan Code
- 7.2.2.4 – Bulimba District Neighbourhood Plan Code
- 9.3.12 – Industry Code.

4.2 Limitations of the planning scheme

The current planning scheme construct (including the specific provisions referred to below) fails to ensure that the intended industrial intent of the CRIP is delivered through the development assessment process and has created a circumstance where unintended non-industrial uses are occurring in this area.

The overarching policy objectives of the area identified within the CRIP as demonstrated in the overall outcomes for the Industry zone that covers the majority of land in the CRIP, are not able to be delivered through application of the more detailed provisions within the current planning scheme on a site-by-site application basis. The cumulative effect of existing approvals coupled with further projected encroachment (e.g. the imminent BrewDog development application and further Rivermakers intensification) should development proposals continue to be subject to the deficient provisions of the planning scheme will compromise the viability and integrity of the industrial zoned land in the CRIP.

4.2.1 Protecting industrial land from inappropriate non-industrial uses

The overarching intent for the CRIP is to protect existing uses and industrial land from encroachment of incompatible and inappropriate non-industrial uses.

To achieve a similar intent to the CRIP the planning scheme must provide applicants and assessment managers with clarity as to what uses are anticipated or encouraged to occur within the CRIP. The planning scheme currently fails to do this. Key failings are associated with the following sections of the planning scheme:

- 5.5.16 – Industry zone – Categories of development and assessment – Material change of use – Industry zone Table of Assessment
- 5.9.58.A – Categories of development and assessment – Material change of use – River gateway neighbourhood plan
- 6.2.5.2 – Industry zone code
- 7.2.18.3 – River gateway neighbourhood plan code
- 9.3.12 – Industry code

Categories of development and assessment for non-industrial uses, such as Food and drink outlet and Shop within the CRIP, are code assessable where meeting gross floor area requirements. The intent of these prescribed gross floor areas is to limit the scale of intended uses. However, outdoor dining areas are not included within the calculation of gross floor area and may significantly increase the anticipated scale of Food and drink outlet and Shop uses as demonstrated by recent and proposed development activity. Continued provision of outdoor dining areas has the effect of increased reverse amenity impacts on established industrial uses in this area whilst cumulatively undermining the existing and intended role and function of the area as a major industry precinct.

The River gateway neighbourhood plan additionally does not increase levels of assessment for incompatible non-industrial uses. The department considers levels of assessment for non-industrial uses within the CRIP must be supported by objective assessment benchmarks to ensure these uses do not compromise the industrial intent of the area.

Relevant assessment benchmarks within the planning scheme are not adequate to ensure these uses do not compromise the industrial intent of the area. For example, overall outcome (e) of 6.2.5.2 Industry zone code that *'development protects the viability of existing and future industry by excluding incompatible development'* does not provide sufficient detail to deliver this intent as it fails to specify what 'incompatible development' is or to establish grounds on which to determine if development is incompatible. This is consistent for all overall outcomes of this zone code relevant to non-industrial development.

Additionally, the River gateway neighbourhood plan code does not contain assessment benchmarks relevant to non-industrial uses within the CRIP and therefore does not provide sufficient fine grain planning to ensure the ongoing industrial viability of this state-significant industry area.

9.3.12 Industry code provides assessment benchmarks relevant to Food and drink outlet and Shop uses however these are deficient for the reasons contained at 4.2.2 below. Additionally, this code

does not provide assessment benchmarks relevant to other potentially incompatible non-industrial development, such as Indoor sport and recreation. Assessment of these uses currently relies on the overall outcomes contained within 6.2.5.2 Industry zone code which as discussed above do not provide sufficient clarity to applicants as to the intent for development in this area.

4.2.2 Cumulative impact of multiple small-scale encroaching inappropriate non-industrial uses

The intent for the CRIP includes to provide for the number and scale of non-industrial uses needed to service the functioning of businesses and workforce within the area.

Overall outcome (g) of 6.2.5.2 Industry zone code that '*Development for a use that is ancillary to an industrial use on the same site, such as an office function, or small-scale shop or food and drink outlet that directly supports the industry and workers may be accommodated*' does not clearly address the cumulative or incremental impact of those non-industrial uses and provides no guidance about how to assess or consider the need for these uses.

PO24 of 9.3.12 Industry code provides for consideration of the scale of Food and drink outlet and Shop uses on an application by application basis. This does not provide for the assessment of the cumulative effect of multiple non-industrial facilities within the industry area.

The current scheme provisions do not prevent the intensification of non-industrial uses, particularly a food and drink outlet use or shop use that is not specifically servicing the industrial workforce in the CRIP being able to be approved as code assessable development. The planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses.

The Purpose statement of 9.3.12 Industry code does not include any overall outcomes relating to Food and drink outlet or Shop uses which this code attempts to address wholly within PO and AO provisions.

PO23 of 9.3.12 Industry code focusses exclusively on the effect of development that is a Food and drink outlet or Shop has on the planning scheme's centre policy (e.g. centres network) and does not consider the effect of these development types on the industry policy and industrial land supply.

4.2.3 Role of the CRIP as part of the Major Industry Area

The CRIP performs a significant role as part of the planning scheme's Major Industry Area.

The River Gateway Neighbourhood Plan Code identifies the CRIP as a specific precinct - *Industry precinct (NPP-005)*. The overall outcomes of 7.2.18.3 River Gateway Neighbourhood Plan Code do not have regard to the economic significance of the precinct. There are no specific assessment benchmarks which are applicable to development in this precinct.

These issues have been identified by the council in correspondence and are further highlighted in recent non-industrial use approvals in this area. The proposed TLPI will improve the efficiency, integration and accountability of the land use provisions for development in this area.

Proposed amendments to the City Plan (Amendment K)

The council are currently progressing an amendment package (Amendment K) which includes amendments that seek to deliver actions relating to the implementation of the *Brisbane Industrial Strategy 2019*. Council have identified the purpose of this amendment is to better support the industrial economy and jobs, and:

- to enhance the role of Brisbane's industrial precincts by emphasising their role in meeting evolving industrial demand, facilitate business and infrastructure investment and services needed to attract a skilled workforce
- to provide appropriate non-industrial uses that meet the needs of workers and enhance the function of areas where low-impact industry is supported
- to support large format, high impact logistics/distribution uses where they meet appropriate thresholds in the General industry C zone precinct of the Industry zone within the Australia TradeCoast and South West Industrial Gateway Major Industry Areas.

The following amendments are proposed to integrate the above actions:

- Part 3 – Strengthen strategic outcomes to ensure incompatible uses do not encroach on industrial land and to clarify what uses may be considered as appropriate supporting uses.
- Part 5 – Clarify and lower levels of assessment for:
 - Food and drink outlet and Shop (<250m² GFA), Indoor sport and recreation (<400m² GFA) and Educational establishment (where for trade related industry training) uses within the Low impact industry zone and Industry zone (General industry A).
 - Warehouse (where for logistics or distribution centre) where in the Industry zone (General industry C).
 - Research and technology industry where in the mixed use zone.
- Part 6 and Part 9 – addition of new and amendment of existing assessment benchmarks to support the above lowering of levels of assessment and to provide outcomes for appropriate non-industrial uses in industrial areas to ensure encroachment does not compromise the viability of industrial zoned land. For example, an assessment benchmark (acceptable outcome) has been added to quantify separation distances between non-industrial uses in industrial zoned land.
- Schedule 1 – addition of 'distribution centre', 'logistics warehouse' and 'wholesale trade' as example uses under the use type Warehouse and removal of Educational establishment (where for trade or industry related training and not involving overnight accommodation) from the sensitive use administration definition to ensure this use does not compromise industrial land through buffer requirements.

Notably, Amendment K seeks to introduce additional assessment benchmarks for small-scale non-industrial uses in industrial zoned land to reduce the impact and likelihood of cumulative encroachment of these uses into industrial zoned land. Certain provisions from Amendment K have been integrated into the proposed TLPI following council feedback received on 30 April 2021 for example the use Educational establishment (for trade or industry related training where not involving overnight accommodation on premises) has been excluded from being subject to the TLPI as this has been recognized as a suitable activity in this area.

The Planning Minister approved the state interest review and provided approval to commence public consultation of Amendment K. The council have been able to commence consultation of this amendment since January 2021 but have yet to do so. It is therefore not likely this amendment process will be completed and adopted by the council within the next 6 months. The proposed TLPI, as a temporary measure, will ensure council have adequate time to consider planning policy objectives for this area and progress potential refinements to amendment K prior to adoption of this instrument. These refinements can therefore occur whilst industrial land and uses within the CRIP are protected by this temporary measure.

5. STATE INTERESTS

A state interest is defined as an interest that the Planning Minister considers:

- affects an economic or environmental interest of the state or a part of the state or
- affects the interest of ensuring that the Planning Act's purpose is achieved.

Under section 8(2) of the Planning Act, the SPP and *ShapingSEQ* are state planning instruments which are made by the Minister to 'protect or give effect to state interests'.

5.1. The Planning Act

The purpose of the Planning Act is to *'establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability'*.

Ecological sustainability is a balance that integrates—

- *the protection of ecological processes and natural systems at local, regional, State, and wider levels; and*
- *economic development; and*
- *the maintenance of the cultural, economic, physical and social wellbeing of people and communities.*

5.2. State Planning Policy (SPP)

The SPP is a key component of Queensland's planning system which expresses the state's interests in land use planning and development. The SPP guiding principles are intended to complement and support the provisions for plan making and development assessment outlined in the Planning Act and the SPP. The SPP guiding principles seek to ensure a planning system that is: outcomes-focused, integrated, efficient, positive and accountable.

The following guiding principles, under the overarching principle of 'Positive', are particularly relevant to the CRIP provisions:

- *Plans are written using clear, concise and positive language to describe what outcomes are sought, required or encouraged in a particular location, rather than what is to be avoided, prevented or discouraged.*
- *Plans adopt a performance-based approach to development assessment to allow for innovation and flexibility in how development in a local area can be achieved.*
- *Plans are drafted to ensure that development is assessed on its individual merits².*

The SPP identifies the 'Development and construction' state interest (within the theme of 'planning for economic growth', that *land uses are consistent with the purposes of the zone*³. The purpose of the Industry zone (as identified in the Planning Regulation and articulated in the planning scheme) that applies to most of the CRIP area is:

- *The purpose of the industry zone is to provide for (a) a variety of industry activities; and (b) other uses and activities that - (i) support industry activities; and (ii) do not compromise the future use of premises for industry activities.'*

The SPP establishes that land uses consistent with the purpose of the zone will:

- facilitate the availability of well-located and well serviced land for business and industry that has access to suitable infrastructure networks
- achieve an efficient and effective planning system that supports economic growth by providing certainty to investors and investment can be encouraged with will enable local economic opportunities to be realised.

The SPP identifies the state interest in 'Emissions and hazardous activities' (within the theme of planning for 'safety and resilience to hazards'). The SPP provides that the State interest is to 'ensure the operation of appropriately established industrial development ...'. The SPP also establishes that existing and approved medium impact and high impact industries are to be protected from encroachment by development that would compromise the ability of the land use to function safely

² Page 15, SPP, 3 July 2017

³ Page 32, SPP, 3 July 2017

and effectively. This is to be achieved by ensuring development for an incompatible use does not encroach on land that is affected by the adverse impacts of hazardous and hard-to-locate land uses⁴.

5.3. ShapingSEQ

ShapingSEQ is a more detailed expression of the SPP and helps to contextualise the SPP for the SEQ region. The key goal in *ShapingSEQ* that are relevant to the CRIP are Goal 2: 'Prosper'. This goal is supported by elements and strategies that set out the specific outcomes desired for the region and the strategies to achieve them. *ShapingSEQ* was released in 2017 after the planning scheme commenced in 2014 and *ShapingSEQ* has not yet been reflected in the planning scheme.

The protection of industrial land proposed particularly in the Australia TradeCoast REC will ensure sub-regional outcomes related to trade and industry preservation and expansion and related jobs growth are realised.

5.3.1. Goal 2: Prosper

The following elements of Prosper are of relevance to the CRIP:

- Element 1: High-performing outward-focused economy

ShapingSEQ states that *SEQ responds to the transitioning economy by focusing on export-oriented and business-to business transactions that drive productivity and growth⁵,...*

One of the relevant strategies in considering how the CRIP can continue to contribute to a high-performing outward-focused economy is Strategy 5: *Plan for and support continued growth in population-serving employment and traditional economic industries.*

- Element 2: RECs

ShapingSEQ states that *RECs will leverage traditional strengths and competitive advantages to advance the economy, strengthen our global and national relationships, and embrace emerging technology and new opportunities⁶.*

RECs are areas that contain a concentration of significant economic activity and employment, and support groupings of MEIAs, knowledge and technology precincts and regional activity centres.

The CRIP is located within the Australia TradeCoast REC MEIA (refer to map 3a Prosper – Economic areas on page 56 of *ShapingSEQ*). Representing one of SEQ's most significant existing industrial agglomerations, the Australia TradeCoast REC includes the Murarrie/Colmslie MEIA ('M5'), recognised as part of the port-related cluster which features high levels of specialisation in priority sectors of manufacturing, mining services, transport and logistics, and tourism.

- Element 5: MEIAs

ShapingSEQ states that *MEIAs, including their supply chain networks, grow and enhance national and global trade⁷.*

MEIAs accommodate medium- and high-impact industries and other employment uses associated with, or with access to, state transport infrastructure. These areas are major drivers of economic growth. They are either significant in size or have the potential to expand to provide for industry and business activity clusters of regional and state significance⁸.

⁴ Page 49, SPP, 3 July 2017

⁵ Page 52, *ShapingSEQ*, July 2017

⁶ Page 50, *ShapingSEQ*, July 2017

⁷ Page 53, *ShapingSEQ*, July 2017

⁸ Page 58, *ShapingSEQ*, July 2017

The CRIP is recognised as a major driver of economic growth in SEQ by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*. The CRIP is strategically located in the region; it has good access to enabling transport infrastructure and services supporting high levels of specialisation in priority sectors of manufacturing, mining services, transport and logistics, and tourism.

- Element 7: Special uses

ShapingSEQ states that *SEQ accommodates a range of special uses, including activities that are difficult to locate, and that support regional needs and economic growth*⁹.

ShapingSEQ includes strategies to protect special uses from encroachment by incompatible development strategy.

6. PROPOSED TLPI – STATUTORY ASSESSMENT

Section 27 of the Planning Act allows the Planning Minister to make a TLPI where the Planning Minister considers:

- the action should be taken to protect or give effect to a state interest; and
- the action must be taken urgently.

The department has prepared the proposed TLPI (**Attachment 2**).

Further to section 2 of this report, this section provides an assessment of the proposed TLPI against section 23 and section 27 of the Planning Act. A summary of the proposed TLPI provisions is also provided below.

6.1. Summary of proposed TLPI provisions

Overview

The proposed TLPI applies to assessable development for a material change of use, on land in the Industry zone within the CRIP¹⁰ identified in Figure A of the TLPI, for all uses ¹¹other than for:

- Caretaker's accommodation
- Emergency services
- High impact industry
- Low impact industry
- Marine industry
- Medium impact industry
- Park
- Renewable energy facility
- Research and technology industry
- Service industry
- Special industry
- Telecommunications facility (where not a broadcasting station or television station)
- Utility installation
- Warehouse.
- Educational establishment for trade or industry related training where not involving overnight accommodation on premises

⁹ Page 53, *ShapingSEQ*, July 2017

¹⁰ 'Industry zone' is land contained within the General industry A zone precinct, General industry B zone precinct and General industry C zone precinct of the Industry zone as contained within the planning scheme

¹¹ Use is defined under the Planning Act to include an ancillary use of a premises.

These uses are specifically identified as excluded from the provisions of the proposed TLPI as they are anticipated in the relevant industry zones of the CRIP and are appropriately regulated under the planning scheme.

The proposed TLPI does not apply to:

- accepted development for a material change of use
- development on land outside of the area within the CRIP identified in Figure A
- development in a zone other than the Industry zone.

Category of assessment and assessment benchmarks

The proposed TLPI establishes impact assessment as the category of assessment for development for a material change of use for uses to which the proposed TLPI applies.

All other uses not regulated by the TLPI, will be assessed in accordance with the current planning scheme provisions.

Most uses regulated by the TLPI are already categorised as impact assessable under the planning scheme for industry zoned land in the CRIP, except for the following uses:

- (a) car wash
- (a) food and drink outlet (where less than 250m² GFA)
- (b) parking station where a 'park and ride' or bicycle parking
- (c) service station
- (d) shop (where less than 250m² GFA).

Under the proposed TLPI these uses will be subject to impact assessment, rather than code assessment. Given the primarily non-industrial nature of these uses it is considered appropriate for these uses to become impact assessable within the CRIP.

In addition to establishing the category of assessment, the proposed TLPI establishes assessment benchmarks applicable to a development application for development to which the proposed TLPI applies, which support the strategies under *ShapingSEQ*, including:

- Goal 2: Prosper – Element 5: MEIA and Element 2: REC – by enabling appropriate development and extension of industry uses on industry zoned land.

The proposed TLPI suspends the application of two performance outcomes and assessment outcomes of the planning scheme's Industry code, being PO23 and PO24 and AO23 and AO24, that address the location and scale of food and drink outlet and shop development. These provisions were identified as current limitations of the scheme in section 4.3 of this report.

Matters not addressed

The proposed TLPI does not:

- Regulate development that is envisaged as generally appropriate within the Industry zone, including:
 - Caretaker's accommodation
 - Emergency services
 - High impact industry
 - Low impact industry
 - Marine industry
 - Medium impact industry
 - Park
 - Renewable energy facility
 - Research and technology industry
 - Service industry
 - Special industry

- Telecommunications facility (where not a broadcasting station or television station)
- Utility installation
- Warehouse.
- Educational establishment for trade or industry related training where not involving overnight accommodation on premises

These uses continue to be appropriately regulated by the planning scheme.

- Protect the CRIP from encroachment from incompatible uses on non-industrial zoned land. For example, the TLPI does not apply to the Sport and recreation and Open space zoned land within the CRIP. The department has determined that it is not necessary for these matters to be included in the TLPI, as the existing arrangements under the planning scheme appropriately regulate uses within these non-industrial zones.

6.2. Assessment of Section 23 of the Planning Act

Section 23(1)(a)—there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area

The department considers the limitations of the existing planning scheme discussed in this PAR create a significant risk of serious adverse economic conditions happening in the local government area, as based on the Department's assessment:

- The current planning scheme provisions fail to ensure that development proposals for non-industrial development do not adversely impact on the intended industrial purpose of the CRIP. The scheme construct, and recent approvals given by the council, have created a circumstance where unintended non-industrial uses are seen to be broadly supported by the council and its planning scheme in this area. This is further demonstrated by a number of these approvals being subject to ongoing Planning and Environment Court actions on the grounds that such non-industrial uses involve the inappropriate use of this land.
- The overarching policy objectives of the area identified within the CRIP are not able to be delivered through application of the current scheme on a site-by-site application basis. The cumulative effect of these existing approvals coupled with further projected encroachment will compromise the viability and integrity of the industrial zoned land in the CRIP. For example, the current scheme does not include provisions that would prevent the intensification of non-industrial uses in this industrial area, particularly for a food and drink outlet use or shop use that is not specifically servicing the industrial workforce in the CRIP being able to be approved as code assessable development. The planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses.

The council wrote to the Planning Minister on 23 February 2021 seeking support in protecting the long-term viability of heavy industry uses, including the ACC facility, and in that correspondence the council raised the concern that they cannot guarantee under their existing planning scheme that future uses developed in the adjoining area will not result in reverse amenity impacts.

On 19 May 2021, a meeting occurred between the Deputy Premier and the Deputy Mayor (accompanied by the Director-General and State Planner, in the department and the Chief Planner of the council). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.

The council has since advised that it will not be progressing a TLPI to resolve this matter

The lack of strength in existing planning scheme provisions and a decision by the council to not proceed with a council proposed TLPI presents an immediate and increasing risk to the protection of industrial uses on industrial land within the CRIP and the effective regulation and assessment of non-industrial development in the CRIP, as based on the department's assessment of the current planning scheme provisions:

- the current planning provisions do not appropriately protect the achievement of the economic outcomes identified in *ShapingSEQ*; and
- the existing categories of assessment, strategic outcomes and assessment benchmarks are allowing unintended non-industrial uses to be approved in industrial area zones at a scale that is compromising the future viability of the CRIP area for continued industrial activities.

Consequently, the economic outcomes intended for the CRIP (as evidenced in *ShapingSEQ*), are put at significant risk, as the application of the planning scheme in the assessment of development cannot function or is unlikely to function to achieve the planned economic outcomes for the area. This disfunction presents a significant risk of serious adverse economic conditions occurring in the CRIP in terms of the ongoing viability of industrial uses on industrial land.

Representations from significant landowners and industry businesses

The risk of these serious adverse economic conditions occurring in the CRIP are evidenced by representations received by the Planning Minister and the department from significant landowners and industry businesses in the CRIP:

Australian Country Choice

On 28 January 2021, [Refused under section 47(3)(b) of the RTI Act] ACC Group, wrote to the Planning Minister outlining concern with maintaining the existing industrial function of the ACC meat processing facility due to increased business uncertainty brought about by the encroachment of non-industrial uses in the CRIP. ACC occupies a site that has been utilised as a meat processing facility since the 1930s and has informed the department that it has injected more than \$200 million in upgrades since relocating to this site in 2000.

ACC made the following relevant statements in this representation:

"It is impossible for ACC to continue to invest without certainty and if we have to rely solely on the planning and environment court process it will be initially years and hundreds of thousands of dollars spent and eventually Millions of Dollars spent before a resolution is decided, a time frame and expense that is unacceptable to any business."

On 19 March 2021, representatives of ACC made additional representations to the Planning Minister following the 23 February 2021 approval of the Revel Brewery High Impact Industry (brewery) and Food and drink outlet development. These representations provided options for the Planning Minister to consider which including utilising call in and direction powers under the Planning Act.

[Refused under section 47(3)(b) of the RTI Act]

On 4 January 2021, [Refused under section 47(3)(b) of the RTI Act] wrote to the Chief Executive of the department regarding the 9 November 2020 approval by the council of an Indoor sport and recreation facility representing a significant non-industrial use in the CRIP. This correspondence is associated with a Planning and Environment Court action.

[Refused] made the following relevant statements in this correspondence:

"The proposed development is inconsistent with the Respondent's intent for the use of the land in that:

- a) it will involve the inappropriate use of the land, which is located in the Industry Zone and in a Major Industry Area, for a non-industrial land use;*
- b) it will not facilitate the protection, evolution, diversification and expansion of a Major Industry Area for its intended purpose by introducing an incompatible non-industrial use into this area;*
- c) it will involve the inappropriate use of the land for a non-industrial land use that can be adequately located elsewhere in the city."*

Existing significant industrial uses in the CRIP are well established and hard to relocate. Operators of industrial uses have cited encroaching non-industrial development as a constraint to further investment and growth which will pose a risk of serious adverse economic conditions in the CRIP.

Section 23(1)(b)—the delay involved in using the process in sections 18 and 20 to make or amend another local planning instrument would increase the risk

Amending the planning scheme in accordance with the Planning Act would take the council a significant amount of time to complete because the planning issues are complex and there is likely to be significant stakeholder interest in any planning scheme amendment proposed by the council.

In amendments to its planning scheme currently underway, the council have recognised a need to strengthen strategic provisions throughout its planning scheme to ensure incompatible uses do not encroach on industrial land, and to clarify what uses may be considered as appropriate supporting uses on industrial land. However, this amendment process is yet to progress to public consultation and is likely at least six months away from completion and implementation.

Since the section 94 direction issued on 25 January 2021, there have been nine development applications involving incompatible non-industrial uses lodged in the CRIP area. Officers in the department are also aware of a number of significant non-industrial development applications likely to be imminently lodged within the CRIP:

- A proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie within the TLPI boundary.
- Future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies, and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- Published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working with BMI to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.

While council have confirmed in its letter of 23 February 2021 that they are investigating further measures to protect the ACC abattoir facility the delay involved in completing this review and any subsequent planning scheme amendment process will continue to increase the risk identified above, noting that the current planning scheme:

- continues to allow the approval of incompatible non-industrial uses which will compromise the effective regulation of development in the CRIP, and which will continue until the scheme provisions are appropriately amended to align them with *ShapingSEQ*; and
- consequently creates current and ongoing uncertainty for current and future investment in existing and new industrial development within the CRIP.

The council has since advised that it will not be progressing a TLPI to resolve this matter

Section 23(1)(c)—the making of the TLPI would not adversely affect state interests

The department has assessed the proposed TLPI against all relevant state interests as articulated in *ShapingSEQ* and the SPP and concludes that no adverse effects on any state interest would result from the making of this TLPI.

6.3. Assessment of Section 27 of the Planning Act

Section 27 of the Planning Act provides that the Minister can take urgent action to protect, or give effect to, a state interest

Section 27 of the Planning Act allows the Planning Minister to make a TLPI where the Planning Minister considers:

- (a) the action should be taken to protect or give effect to a state interest; and
- (b) the action must be taken urgently.

A state interest is defined in the Planning Act as:

State interest means an interest that the Minister considers—

- (a) affects an economic or environmental interest of the State or a part of the State; or
- (b) affects the interest of ensuring this Act's purpose is achieved.

The purpose of the Planning Act (per section 3(1)) is:

*The purpose of this Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning (**planning**), development assessment and related matters that facilitates the achievement of ecological sustainability.*

Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, State, and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

Protecting, or giving effect to, state interests

The Planning Act seeks to “*establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability*”.

As outlined above, the planning scheme provisions present an immediate and increasing risk to the effective regulation and assessment of development in the CRIP, being an area recognised as a major driver of economic growth in SEQ by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*.

The current planning scheme provisions present an immediate and ongoing risk to the continuation of significant industrial uses on land in the Industry zone within the CRIP, whereby the council does not have appropriate planning controls to protect this recognised industrial area from encroachment by inappropriate non-industrial uses, as demonstrated by the recent approval of non-industrial uses in the CRIP.

While the council is currently progressing an amendment to the planning scheme that will in part address some of the existing issues, the nature of development currently being proposed and approved by the council makes it evident that the delay in the implementation of these arrangements will not address the issues at hand in a timely manner. It is noted that as the extent of the proposed amendments to the planning scheme will have broad effect across the planning scheme area, they may not be sufficiently focused to address the specific issues relating to non-industrial development which is currently evident with the CRIP area.

The continued operation of appropriately established industrial development is of importance to the state, as reflected in the SPP and *ShapingSEQ*. Additionally, protecting core components including

MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.

These clear state interests in both the SPP and *ShapingSEQ* are increasingly compromised by the current planning scheme arrangements which are not appropriately protecting industrial uses from encroachment of non-compatible uses. The planning scheme as it applies within the CRIP has resulted in development outcomes that are inconsistent with the purpose of the zone thereby not adequately protecting or giving effect to the Development and construction state interest of the SPP. Additionally, the planning scheme does not adequately protect existing and approved land uses or areas from encroachment by development that would compromise the ability of the medium and high-impact uses to function safely and effectively not achieving the intent of the Emissions and hazardous activities state interest under the SPP.

Urgent amendments are needed to address these matters in the existing planning scheme to:

- protect and give immediate effect to the purpose of the Planning Act to establish and therefore maintain, an accountable, efficient and effective land use planning and development assessment system. That is, a development assessment system that can:
 - achieve the development outcomes planned for the CRIP identified in *ShapingSEQ* and the SPP; and
 - facilitate the achievement of the economic outcomes set for the area by *ShapingSEQ*.

The proposed TLPI will protect and give effect to these State interests by ensuring:

- continued protection of the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur to provide economic benefits to the region and local area
- incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
- protection and effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

Urgent action

The current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes set for the CRIP by *ShapingSEQ*. Recent development assessment decisions made by council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulate manner across the CRIP.

The need for urgent action in this area is demonstrated by the department's understanding that there are proponents who are considering establishing significant non-industrial uses on industry zoned land within the CRIP. This includes the Brewdog hotel proposal and future development at The Depot and Heritage Quarter as part of the Rivermakers development.

These issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.

The council has since advised that it will not be progressing a TLPI to resolve this matter. The Department considers that this significantly increases the risk of serious adverse economic conditions resulting from the approval of further non-industrial development cumulatively undermining the existing and intended role and function of the area as a major industry precinct.

A TLPI is an appropriate instrument that can address these issues, urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.

7. PROPOSED TLPI – PURPOSE AND EFFECT

Should the proposed TLPI be made, its purpose, application, period and effect are included below.

a) Purpose

The purpose of the proposed TLPI is to:

- continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area
- ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development and
- protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

The purpose of the TLPI will be achieved through development that is consistent with the CRIP Provisions contained in the proposed TLPI.

b) Application

- The proposed TLPI only applies to land in the Industry zone within the CRIP identified in Figure A of the TLPI in the Brisbane City Council local government area.

c) Period

- In accordance with section 9(3)(a) of the Planning Act, the effective day for the proposed TLPI is the day on which public notice of the proposed TLPI is published in the gazette.
- The proposed TLPI will have effect in accordance with the Planning Act for a period not exceeding two years from the effective day or a longer period as may be permitted by law or unless otherwise repealed sooner.

d) Effect

- The proposed TLPI is a local categorising instrument.
- The proposed TLPI applies to land in the Industry zone within the CRIP identified in Figure A in the TLPI.
- The proposed TLPI suspends parts of the planning scheme, for development to which the TLPI applies.
- The proposed TLPI prescribes a category of assessment, being impact assessment, for development for a material change for the uses to which the TLPI applies.
- Includes assessment benchmarks, which are contained in Attachment A of the proposed TLPI, for development to which the TLPI applies.

8. RECOMMENDATIONS AND REASONS

Having regard to the information provided above, the department recommends the Planning Minister decide to make the proposed TLPI for the reasons set out in the attached Statement of Reasons (**Attachment 3**).

Kathryn Mah

From: Infrastructure/Planning ESU
Sent: Friday, 25 June 2021 9:52 AM
To: CEOOffice.BCC@brisbane.qld.gov.au
Cc: Lord.Mayor@brisbane.qld.gov.au
Subject: Correspondence to Mr Colin Jensen from the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning – Our ref: MBN21/643
Attachments: Notice to Mr Colin Jensen and Cr Adrian Schrinner - Colmslie Road Industry Precinct.pdf; Enc - Proposed Colmslie Road Industry Precinct TLPI.pdf; Enc -Statement of reasons.pdf

Good afternoon

Please find attached correspondence from the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning.

Please do not respond to this email. If you wish to reply please send your email to deputy.premier@ministerial.qld.gov.au

Kind regards



**Queensland
Government**

Executive Services Unit

Department of State Development, Infrastructure,
Local Government and Planning
1 William Street, Brisbane QLD 4000

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Hon Steven Miles MP
Deputy Premier
Minister for State Development, Infrastructure,
Local Government and Planning

Our ref: MBN21/643

21 June 2021

1 William Street
Brisbane Queensland 4000
Email deputy.premier@ministerial.qld.gov.au

Mr Colin Jensen
Chief Executive Officer
Brisbane City Council
CEOOffice.BCC@brisbane.qld.gov.au

Dear Mr Jensen

In accordance with section 27(2) of the *Planning Act 2016* (the Planning Act), I hereby give you Notice that I intend to make Temporary Local Planning Instrument No. 2 of 2021 – Colmslie Road Industry Precinct (the proposed TLPI) effective from the day it is published in the Queensland Government gazette.

The proposed TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* for the Colmslie Road Industry Precinct. A copy of the proposed TLPI is enclosed.

I consider that urgent action should be taken to protect, and give effect to, state interests in accordance with section 27(1) of the Planning Act. My reasons for taking this action are also enclosed.

If you require any further information regarding this matter, please contact Ms Danielle Cohen, Chief of Staff in my office, by email at danielle.cohen@ministerial.qld.gov.au or by telephone on (07) 3719 7100.

Your sincerely

A handwritten signature in blue ink, appearing to be 'S Miles'.

STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

Enc (2)

cc The Right Honourable the Lord Mayor of Brisbane
Councillor Adrian Schinner
Brisbane City Council
Lord.Mayor@brisbane.qld.gov.au

TEMPORARY LOCAL PLANNING INSTRUMENT NO. 02 OF 2021

COLMSLIE ROAD INDUSTRY PRECINCT

Brisbane City Council City Plan 2014

1. Short Title

- 1.1 This Temporary Local Planning Instrument (TLPI) may be cited as Temporary Local Planning Instrument 02/21 – Colmslie Road Industry Precinct.

2. Overview

- 2.1 This TLPI provides an interim response to protect the Colmslie Road Industry Precinct (CRIP) from encroachment by inappropriate non-industrial uses.
- 2.2 This TLPI seeks to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC).
- 2.3 This TLPI recognises the importance of the CRIP as a regionally and locally significant industry area with high employment levels, containing diverse and economically significant industries and continuing to support long-standing and hard to locate industries.
- 2.4 In particular, this TLPI seeks to ensure development on land in the Industry zone within the CRIP is appropriately regulated to protect the integrity the Industry zone for new and existing industry uses and to ensure future uses will not result in reverse amenity impacts to existing and future industrial uses within the CRIP.
- 2.5 New non-industrial development and intensification of existing non-industrial development is not supported on land in the Industry zone within the CRIP, unless compliant with the TLPI.

3. Purpose of the TLPI

- 3.1 The purpose of the TLPI is to:
 - i. Continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area.
 - ii. Ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development.

- iii. Protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3.2 To achieve this purpose the TLPI:

- i. Suspends parts of the planning scheme, for development to which this TLPI applies.
- ii. Prescribes a category of assessment for development for a material change for the uses to which this TLPI applies.
- iii. Includes assessment benchmarks, for development to which this TLPI applies.

3.3 The purpose of the TLPI will be achieved through development that is consistent with the assessment benchmarks contained in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI).

4. Duration of this TLPI

4.1 This TLPI has effect for a period of two years from the effective date.

4.2 In accordance with section 9(3)(a) of the *Planning Act 2016*, the effective date for the TLPI is **XX XXXX 2021**.

5. Terms used in this TLPI

5.1 Sensitive use is as defined in section SC1.2.3 of the planning scheme.

5.2 Where a term used in a this TLPI is not defined, the term shall have the meaning assigned to it by:

- i. the *Brisbane City Plan 2014* (the planning scheme); or
- ii. the *Planning Act 2016* where the term is not defined in the planning scheme.

5.3 To the extent of any inconsistency between this TLPI and the planning scheme, the TLPI prevails.

6. Effect of this TLPI

6.1 This TLPI is a local categorising instrument under the *Planning Act 2016* which specifies the categories of assessment and sets out assessment benchmarks for assessing development.

6.2 This TLPI applies to land in the Industry zone within the CRIP identified in Figure A.

- 6.3 This TLPI applies to assessable development for a material change of use for all uses¹ other than for:
- i. Caretaker's accommodation
 - ii. Educational establishment for trade or industry related training where not involving overnight accommodation on premises
 - iii. Emergency services
 - iv. High impact industry
 - v. Low impact industry
 - vi. Marine industry
 - vii. Medium impact industry
 - viii. Park
 - ix. Renewable energy facility
 - x. Research and technology industry
 - xi. Service industry
 - xii. Special industry
 - xiii. Telecommunications facility (where not a broadcasting station or television station)
 - xiv. Utility installation
 - xv. Warehouse.
 - xvi.
- 6.4 This TLPI does not apply to:
- i. accepted development for a material change of use
 - ii. development on land outside of the area within the CRIP identified in Figure A
 - iii. development in a zone other than the Industry zone.
- 6.5 The category of assessment for development for a material change of use to which this TLPI applies (in 6.3) is impact assessment where on land in the Industry zone identified within the CRIP in Figure A.
- 6.6 This TLPI suspends the following sections of the planning scheme when assessing a development application for development to which this TLPI applies:
- i. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO23 and AO23; and
 - ii. Section 9.3.12, Table 9.3.12.3.A—Performance outcomes and acceptable outcomes, PO24 and AO24.
- 6.7 The assessment benchmarks applicable to a development application for development to which this TLPI applies, are set out in the Colmslie Road Industry Precinct Provisions (Attachment A of this TLPI). These provisions apply in addition to the provisions in the planning scheme (unless stated otherwise).

¹ Use is defined under the *Planning Act 2016* to include an ancillary use of a premises.

Attachment A

Colmslie Road Industry Precinct Provisions

1. Compliance with the Colmslie Road Industry Precinct Provisions

- 1.1 Development that is consistent with the assessment benchmarks complies with the Colmslie Road Industry Precinct (CRIP) Provisions. Development that is inconsistent with these provisions constitutes undesirable development and is unlikely to be approved.

2. Purpose of the Colmslie Road Industry Precinct Provisions

- 2.1 The purpose of the CRIP Provisions is to support the economic prosperity and growth of this key component of the Australia TradeCoast Regional Economic Cluster (REC) as a regionally and locally significant industry area, by:
- i. protecting the integrity of land in the Industry zone for new and existing industry uses that provide economic benefits to the region and local area; and
 - ii. ensuring incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development; and
 - iii. protecting the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

3. Assessment benchmarks

- 3.1 The purpose of the CRIP Provisions will be achieved through the following overall outcomes:
- i. land in the Industry zone within the CRIP is used for new and existing industry uses; and
 - ii. land in the Industry zone within the CRIP is protected from use for inappropriate non-industrial activities; and
 - iii. non-industrial development that may result in reverse amenity impacts to industry uses does not locate on land in the Industry zone within the CRIP; and
 - iv. office uses do not locate on land in the Industry zone within the CRIP unless ancillary to an industrial use on the same site, such as an administrative area that directly supports the industrial use; and
 - v. indoor sport and recreation and outdoor sport and recreation uses do not locate on land in the Industry zone within the CRIP; and
 - vi. the only non-industrial uses contained on land in the Industry zone within the CRIP:

- a. are small-scale food and drink outlet or shop uses that provide business services and facilities that are necessary to support the industrial workforce within the CRIP or have a demonstrated direct nexus with industrial businesses; or
- b. do not involve a clustering of small non-industrial uses and do not locate in a catchment which is already serviced by an existing or approved non-industrial use; and
- c. are those needed to facilitate the economic growth and advancement of the industry uses within the CRIP; and
- d. do not adversely impact on the continued operation of nearby industrial uses or compromise the industrial function of the CRIP.

3.2 Development for a food and drink outlet:

- i. serves the local industrial workforce in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating or outdoor dining area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a food and drink outlet.

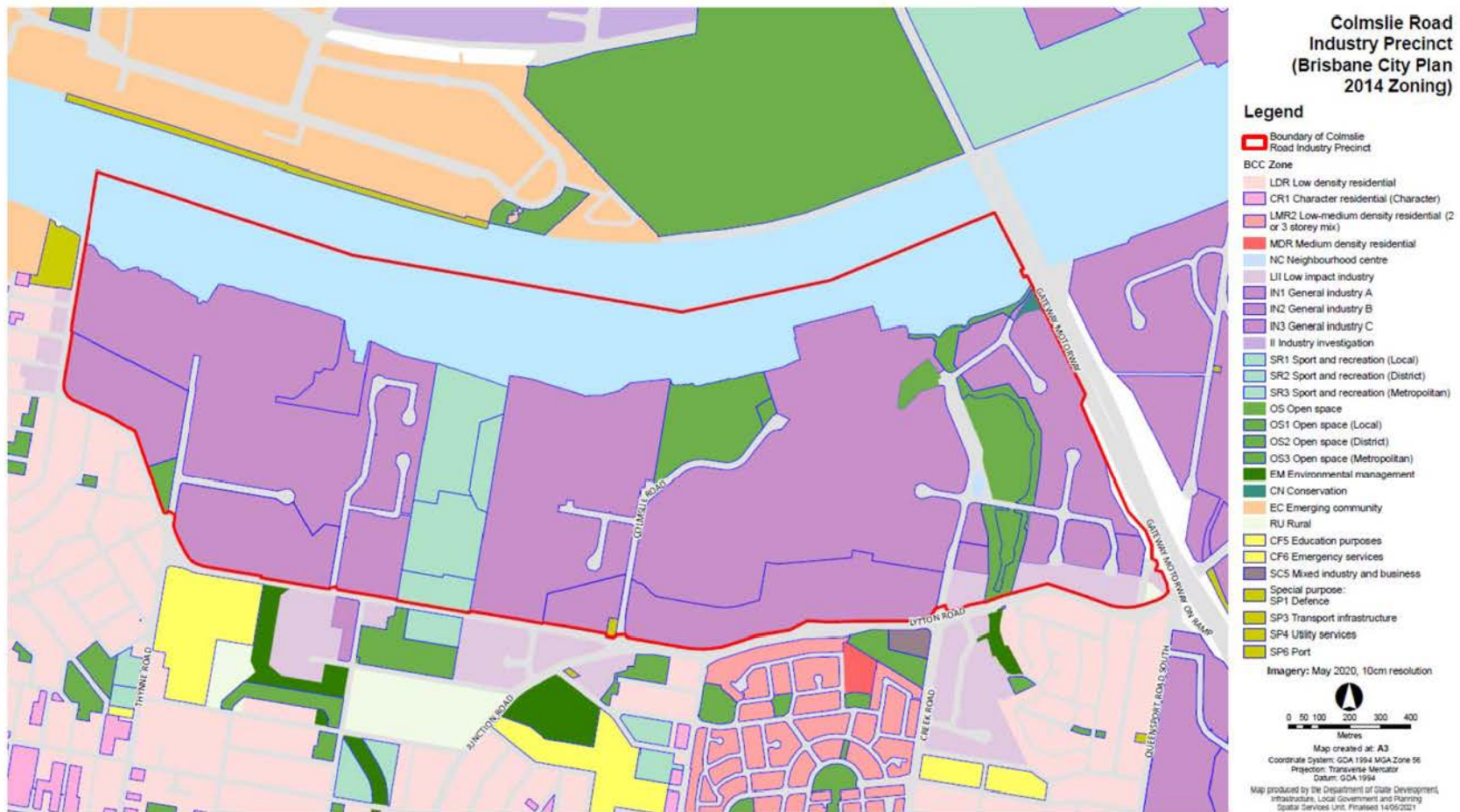
3.3 Development for a shop:

- i. serves the local industrial workforce or industry businesses in the CRIP and does not serve a broader catchment in non-industrial zones outside of the CRIP; and
- ii. contains a maximum gross floor area of 250m²; and
- iii. does not contain any outdoor seating area; and
- iv. has hours of operation which are limited to 6am to 7pm Monday to Saturday excluding public holidays, where in the General industry A zone precinct of the Industry zone; and
- v. is not located within 800 metres walking distance of an existing or approved premises containing a shop.

3.4 Development for any other use:

- i. has a clear nexus with and is necessary to support the viability of, and current and future operation of, industrial activities within the CRIP; and
- ii. does not include a sensitive use; and
- iii. specifically, does not involve an indoor sport and recreation or outdoor sport and recreation use.

Figure A – Colmslie Road Industry Precinct



Statement of Reasons

Statement of Reasons in respect of the decision by the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, made on 21 June 2021 under section 27 of the *Planning Act 2016* (Qld) (the Planning Act) to intend to make a Temporary Local Planning Instrument.

1 Decision

- 1.1 On 21 June 2021, I, the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning, decided, in accordance with section 27 of the Planning Act, to give notice to the Brisbane City Council (the council) in accordance with section 27(2) of the Planning Act, that I intend to take action, namely, to make the Temporary Local Planning Instrument No. 02 of 2021 Colmslie Road Industry Precinct (the TLPI).
- 1.2 This TLPI provides an interim policy response to:
- (a) continue to protect the integrity of land in the Industry zone for new and existing industry uses and enable new investment in industry to occur within the Colmslie Road Industry Precinct (CRIP) to provide economic benefits to the region and local area
 - (b) ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
 - (c) protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.
- 1.3 If made, the TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* (the planning scheme) as set out in the TLPI.
- 1.4 I am satisfied that the action I intend to take:
- (a) should be taken under section 26(2)(b) of the Planning Act to protect, or give effect to, a state interest and
 - (b) must be taken urgently.
- 1.5 The reasons for my decision are set out below.

2 Background

- 2.1 I was informed, by the Planning Assessment Report (PAR) prepared by the Department of State Development, Infrastructure, Local Government and Planning (the department) and provided to me as **Attachment 2** to the Briefing Note MBN21/643 as to background information relevant to my decision, relevant statutory provisions and the purpose and effect of the TLPI.
- 2.2 I particularly note the following, to which I had reference in making my decision:
- (a) the information contained in sections 1 – 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 2.3 The legislation and statutory instruments relevant to my decision are:
- (a) Planning Act
 - (b) Planning Regulation 2017

- (c) the planning scheme
 - (d) South East Queensland Regional Plan 2017 (*ShapingSEQ*) and the State Planning Policy (SPP).
- 2.4 I note the following legislative provisions are relevant to my decision.
- 2.5 Section 27 of the Planning Act applies if I consider that:
- (a) action should be taken under section 26(2)(b) to protect, or give effect to, a state interest, and
 - (b) the action must be taken urgently.
- 2.6 A 'state interest' is defined as an interest that I consider:
- (a) affects an economic or environmental interest of the state or a part of the state or
 - (b) affects the interest of ensuring that the Planning Act's purpose is achieved.
- 2.7 The purpose of the Planning Act is to '*establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability*'.
- Ecological sustainability is a balance that integrates—*
- (a) *the protection of ecological processes and natural systems at local, regional, State, and wider levels; and*
 - (b) *economic development; and*
 - (c) *the maintenance of the cultural, economic, physical and social wellbeing of people and communities.*
- 2.8 Under section 8(2) of the Planning Act, the SPP and *ShapingSEQ* are state planning instruments which are made to 'protect or give effect to state interests'.
- 2.9 The action which I may consider taking urgently under section 27 and 26(2)(b) of the Planning Act includes making a TLPI.
- 2.10 Under section 27 I can, as Planning Minister, take this action to make a TLPI if under section 23(1) of the Planning Act, I am satisfied:
- (a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area
 - (b) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk and
 - (c) the making of the TLPI would not adversely affect state interests.
- 2.11 Under section 27(2) of the Planning Act, before taking action, I must give the relevant local government a notice that states:
- (a) the action that I intend to take and
 - (b) the reasons for taking the action.
- 2.12 Under section 27(3) of the Planning Act, after giving the relevant notice under the Planning Act, I may take the action as required under the process in the Minister's Guidelines and Rules (MGR) without:
- (a) giving a direction to the local government under section 26 or
 - (b) consulting with any person before taking the action.

- 2.13 The MGR is made under section 17 of the Planning Act and include rules about making or amending TLPIs.
- 2.14 Section 10 of the Planning Regulation 2017 provides that the MGR are contained in the document called the 'Minister's Guidelines and Rules' dated September 2020, published on the department's website.
- 2.15 Chapter 3, Part 2 of the MGR prescribes the process for making or amending a TLPI for section 23 of the Planning Act.
- 2.16 A TLPI may suspend, or otherwise affect, the operation of another local planning instrument. However, a TLPI does not amend or repeal the instrument.

3 The evidence or other material on which findings on material questions of fact are based

- 3.1 In deciding that I intend to exercise my power under section 27 of the Planning Act, I had regard to the Briefing Note MBN21/643 and its attachments including the following documents:
 - (a) the TLPI
 - (b) the PAR
 - (c) the draft Notice to the council
 - (d) this Statement of Reasons.

4 Findings on material questions of fact

- 4.1 I made the following findings of fact having regard to the evidence or other material as set out in Section 3 above.

Background information

- 4.2 I accept the information contained in the PAR, specifically:
 - (a) the information contained in sections 1 to 5 of the PAR
 - (b) the assessment of the TLPI against the statutory provisions in section 6 of the PAR and
 - (c) the purpose and effect of the TLPI discussed in section 7 of the PAR.
- 4.3 More specifically, I made the following findings of fact having regard to the information provided in the PAR:
 - (a) The CRIP contains an area of predominantly industrial zoned land located west of the Gateway Motorway in Murarrie, Morningside and Bulimba, in eastern Brisbane. The CRIP is part of the larger Australia TradeCoast Regional Economic Cluster (Australia TradeCoast REC), a major economic and employment precinct identified in the *ShapingSEQ*. The council identify that this REC contains more than 1,410 employing businesses accounting for approximately 8% of Brisbane's total employment and generating more than \$15 billion of exports in the 2016-17 financial year.
 - (b) The CRIP is part of the Murarrie/Colmslie Major Enterprise and Industrial Area (MEIA) within the Australia TradeCoast REC. The CRIP is strategically located within Brisbane and SEQ. It has good access to major arterial roads, direct river access and access to the Port of Brisbane, is easily accessible by a skilled workforce and is close to significant commercial centres.
 - (c) The CRIP primarily contains land uses defined as High, Medium and Low impact industry with some Warehouse and ancillary commercial office uses. Development in the CRIP is ongoing with several lots currently unimproved or underutilised.

- (d) Existing significant industrial uses in the CRIP are well established and hard to relocate. These industries have the potential to cause nuisance to communities through environmental emissions such as air, odour and noise pollution or risks to the health and safety of communities, which characteristics require these industry uses to be in locations which are well separated from sensitive land uses.
- (e) Established industry operators within the CRIP have written to the state and the council expressing a desire to invest and grow their businesses. These operators have cited encroaching non-industrial development as a constraint to further investment and growth which will compromise the intended function of the Murarrie/Colmslie MEIA.
- (f) On 9 November 2020, a development application for an Indoor sport and recreation facility at 500 Lytton Road and 32 Colmslie Road, Murarrie was approved by the council for a period of two years.
 - (i) The site is industrial zoned land within the CRIP boundary.
 - (ii) I was requested to call in the development application, and in its request the requestor raised concern:
 - (A) that the development would have a detrimental impact on the operation of its business as well as the operation of other industries in the major industry area and
 - (B) about ongoing urban development being approved by the council and encroaching on its existing facility.
- (g) On 22 January 2021, I decided not to call in the application.
- (h) This approval has been the subject of two Planning and Environment Court appeals [3451/20] and [23/21].
- (i) In considering this call in request, I considered that the approval and the council's assessment material relating to the application, as well as the appeals, identified significant planning issues relating to matters of state interest. Accordingly, I decided on 22 January 2021 to direct the council, in accordance with section 94 of the Planning Act, to provide me with copies of future applications proposing non-industrial activities in industry zoned land in the Australia TradeCoast REC for a period of twelve months.
- (j) The intent of this monitoring is to construct a fulsome picture of all relevant applications made to council so that I may be informed of the overall impact that applications the subject of the direction may have on the outcomes sought to be achieved for industrial land in the Australia TradeCoast REC.
- (k) Since the issuing of this direction to the council, 49 applications have been provided to me by the council. To date, nine of these applications relate to land within the CRIP boundary.
- (l) On 23 February 2021, the council also approved a code assessable development application to establish a High impact industry (brewery) and Food and drink outlet at 82 Colmslie Road, Murarrie (land within the CRIP boundary). This application is the subject of current legal proceedings. This approval is the subject of representations made to me on 19 March 2021, seeking greater interventions from the State government to address non-industrial uses impacting the on-going viability of industry uses in the industry zone.
- (m) I am informed of the following other proponents who are considering establishing non-industrial uses on industrial zoned land within the CRIP:
 - (i) Published media reports promoting a proposal by BrewDog to establish a 30 room, four-storey hotel on vacant land next to its brewery and tap-room at 77 Metroplex Avenue, Murarrie.

- (ii) Future uses associated with The Depot, which forms part of the BMI Rivermakers development on the corner of Lytton and Colmslie Roads, Morningside. This commercial mixed-use development contains a range of non-industrial uses and vacant tenancies, and is presently being marketed as a homemaker and trade centre with retail-scale car parking.
- (iii) Published media reports and future uses associated with the Rivermakers Heritage Quarter promoting it as the centre of a vibrant food and beverage hub open to the public at 82-90 Colmslie Road, Murarrie. For example, on 27 April 2021, a number of proponents were reported to be working to establish a retail-led BBQ supplies, specialty butcher, and future food and drink retail uses at this site.
- (n) On 23 February 2021, the Right Honourable, the Lord Mayor of Brisbane, Councillor Adrian Schrinner wrote to me seeking support in protecting the long-term viability of the Australian Country Choice facility (located within the CRIP). The council recognised limitations of the current planning scheme in appropriately protecting industrial land and industrial land uses from incompatible development.
- (o) From 23 February 2021, departmental officers have engaged with council officers regarding progressing a council prepared TLPI.
- (p) On 19 May 2021, I met with Councillor Krista Adams, Deputy Mayor (accompanied by the Director-General and State Planner of the department and council's Chief Planner). It was agreed in this meeting that the council would progress a council initiated TLPI to resolve this matter, with the department's assistance where possible and appropriate.
- (q) The council has since advised the department that they will not be progressing a TLPI to resolve the matter.
- (r) I have had regard to the department's assessment in the PAR of the relevant provisions of the planning scheme for the CRIP.
 - (i) Within the strategic framework of the planning scheme, the CRIP is located within the Major Industry Area. The intent of this Major Industry Area is to:
 - (A) protect existing industry uses from encroachment of non-compatible uses whilst promoting the colocation of business and administrative functions where directly related to the principal industrial use of the premises; and
 - (B) provide the principal regional activity centres for the city and provide high levels of employment through encouraging and accommodating economic activity.
 - (ii) Most of the land within the CRIP is contained within the Industry zone (General Industry A, B and C precincts) zones of the City Plan.
 - (A) The intent of the General Industry A zone precinct is for development to provide *'for low impact industry, service industry and warehouse uses' and to include 'a broad range of industry that is compatible with adjacent residential areas.'*
 - (B) The intent of the General Industry B zone precinct is for development to provide *'for low impact industry and medium impact industry.'*
 - (C) The intent of the General Industry C zone precinct is for development to provide *'for a range of high impact industry uses and compatible medium impact industry uses.'*
 - (iii) Specifically, the CRIP is located within and contains areas defined as the:
 - (A) River Gateway Neighbourhood Plan Area – NPP 005 – Industry
 - (B) Bulimba Districts Neighbourhood Plan Area.

- (s) Having regard to the department's assessment in the PAR, I am satisfied:
- (i) The planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process, as:
 - (A) The planning schemes overarching intent for the CRIP is to protect existing uses from encroachment of non-compatible uses. However, the overarching policy objectives are not able to be delivered through application of the more detailed provisions within the current planning scheme on a site-by-site application basis.
 - (B) The intent for the CRIP includes providing only for the number and scale of non-industrial uses needed to service the functioning of businesses and workforce within the area, however the scheme does not adequately provide for the assessment of these uses.
 - (C) The current planning scheme provisions do not contain adequate consideration of proximity to, impact on or the need for the use to service only the existing industrial land uses. These provisions do not provide for the assessment of the cumulative effect of multiple non-industrial uses within the industry area.
 - (D) The categories of development and assessment for non-industrial uses, such as Food and drink outlet and Shop within the CRIP, are code assessable where meeting gross floor area requirements. While the intent of these prescribed gross floor areas is to limit the scale of intended uses, outdoor dining areas are not included within the calculation of gross floor area and may significantly increase the anticipated scale of Food and drink outlet and Shop uses as demonstrated by recent and proposed development activity. The continued provision of outdoor dining areas will have the effect of increased reverse amenity impacts on established industrial uses in this area whilst cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
 - (E) The River gateway neighbourhood plan code does not contain assessment benchmarks relevant to non-industrial uses within the CRIP and therefore does not provide sufficient fine grain planning to ensure the ongoing industrial viability of this state-significant industry area.
 - (F) The Industry code does not provide assessment benchmarks relevant to other potentially incompatible non-industrial development, such as Indoor sport and recreation. Assessment of these uses currently relies on the overall outcomes contained within 6.2.5.2 Industry zone code which as does not provide sufficient clarity to applicants as to the intent for development in this area.
 - (ii) This has resulted in unintended non-industrial uses occurring in the CRIP;
 - (iii) The cumulative effect of non-industrial development will compromise the viability and integrity of the industrial zoned land in the CRIP.
- (t) I am further informed that the council is currently proposing to amend its planning scheme (package Amendment K) to better support the industrial economy and jobs and implement actions relating to the *Brisbane Industrial Strategy 2019*. It is not likely this amendment process will be completed within the next six months.
- (u) Finally, I have had regard to the department's assessment in the PAR of:
- (i) the Planning Act, SPP and *ShapingSEQ* provisions relating to state interests relevant to my decision

- (ii) the effect and purpose of the TLPI and
- (iii) the statutory requirements relevant to the exercise of my power under section 27 to make the TLPI.

5 Reasons for decision

- 5.1 I consider it is appropriate to and I intend to make the TLPI pursuant to section 27 of the Planning Act to suspend or otherwise affect the operation of the planning scheme for the following reasons.

Section 23(1)(a) of the Planning Act – Potential serious adverse economic impacts

- 5.2 I consider the limitations of the current planning scheme discussed in the PAR create a significant risk of serious adverse economic conditions happening in the local government area, for the following reasons:

- (a) I am satisfied that, having regard to the department's assessment of the current planning scheme provisions there is an immediate and increasing risk to the protection of industrial uses on industrial land within the CRIP as well as the effective regulation and assessment of non-industrial development in the CRIP as:
 - (i) the current planning provisions do not appropriately protect the achievement of the economic outcomes identified in *ShapingSEQ*;
 - (ii) the planning scheme does not ensure that the intended industrial intent of the CRIP is delivered through the development assessment process;
 - (iii) the existing categories of assessment, strategic outcomes and assessment benchmarks are allowing unintended non-industrial uses to be approved in industrial area zones at a scale that is compromising the future viability of existing industry uses and for continued industrial activities in the CRIP area;
 - (iv) the council has written to me acknowledging that the planning scheme cannot guarantee future uses in this area will not result in reverse amenity impacts to existing industrial uses.
- (b) I am satisfied that the encroachment of non-industrial development is a constraint to further investment in and growth of industrial activities. I consider these conclusions are supported by the representations made to me and the department about the approval of non-industrial uses in the CRIP, as set out in the PAR.
- (c) Consequently, I am satisfied that the achievement of the economic outcomes planned for the CRIP, as evidenced in *ShapingSEQ* is being put at significant risk, as the development assessment system cannot function or is unlikely to function to achieve the planned economic outcomes for the area, and presents a significant risk of serious adverse economic conditions happening in the CRIP in regard to the ongoing viability of industrial uses on industrial land.

Section 23(1)(b) of the Planning Act – Increased Risk

- 5.3 I am informed by the department, as set out in the PAR, that:
- (a) Amending the planning scheme in accordance with the Planning Act would take the council a significant amount of time to complete because the planning issues are complex and there is likely to be significant stakeholder interest in any planning scheme amendment proposed by the council.
 - (b) In amendments to its planning scheme currently underway, the council has recognised a need to strengthen strategic provisions throughout its planning scheme to ensure incompatible uses do not encroach on industrial land, and to clarify what uses may be considered as appropriate

supporting uses on industrial land. However, this amendment process is yet to progress to public consultation and is likely at least six months away from completion and implementation.

- (c) Development applications involving non-industrial uses are being lodged in the CRIP area, with the department informing me:
 - (i) there have been at least nine such development applications lodged with the council since 25 January 2021 and
 - (ii) there are future significant non-industrial development applications likely to be lodged within the CRIP, as detailed in the PAR.

5.4 On this basis, I am satisfied the delay involved in using the planning scheme amendment process in sections 18 to 22 of the Planning Act would increase the risk identified above, as the planning scheme as it stands:

- (a) continues to allow the approval of incompatible non-industrial uses which will compromise the effective regulation of development in the CRIP, and which will continue until the scheme provisions are appropriately amended to align them with *ShapingSEQ* and
- (b) consequently, creates current and ongoing uncertainty for current and future investment in existing and new industrial development within the CRIP.

Section 23(1)(c) of the Planning Act – No adverse affect on state interests

5.5 I have had regard to the department's assessment of the proposed TLPI against relevant state interests as articulated in *ShapingSEQ* and the SPP and the department's conclusion that no adverse effect on any state interest would result from the making of this TLPI.

5.6 On this basis, I am satisfied that making the TLP would not adversely affect any state interest.

Section 27 of the Planning Act

5.7 I note that section 27 of the Planning Act allows me as the Planning Minister to make a TLPI where I consider:

- (a) the action should be taken to protect or give effect to a state interest and
- (b) the action must be taken urgently.

5.8 I further note that a 'state interest' is defined as an interest that I consider:

- (a) affects an economic or environmental interest of the state or a part of the state or
- (b) affects the interest of ensuring that the Planning Act's purpose is achieved.

5.9 I consider for the reasons detailed below, that the requirements set out in section 27 of the *Planning Act 2016* are met as:

- (a) The TLPI should be made to protect or give effect to the state interest outlined below and
- (b) The TLPI should be made urgently.

State Interest

5.10 The purpose of the Planning Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability.

5.11 Ecological sustainability is then defined as:

Ecological sustainability is a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, state, and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

5.12 Having regard to the department's assessment in the PAR, I consider the TLPI should be made to protect or give effect to the state interest of ensuring that the Planning Act's purpose is achieved, for the following reasons:

- (a) I am informed that the CRIP is a strategically located area, recognised as a major driver of economic growth in South East Queensland by its designation as an MEIA within the Australia TradeCoast REC in *ShapingSEQ*.
- (b) I am informed the continued operation of appropriately established industrial development is of importance to the state, as reflected in the SPP and *ShapingSEQ*. Additionally, protecting core components including MEIAs within RECs from encroachment by incompatible land uses is of importance to the state, as reflected in *ShapingSEQ*.
- (c) I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to the continuation of significant industrial uses on industry zoned land in the CRIP boundary, whereby the planning scheme does not have appropriate planning controls to protect this recognised industrial area from encroachment by inappropriate non-industrial uses. This conclusion is supported by the recent approval of non-industrial uses in the CRIP.
- (d) I am satisfied that immediate amendments are needed to these provisions in the existing planning scheme, to protect and give immediate effect to the purpose of the Planning Act to establish and therefore maintain, an accountable, efficient and effective land use planning and development assessment system. That is, a development assessment system that can:
 - (i) achieve the development outcomes planned for the CRIP identified in *ShapingSEQ* and the SPP and
 - (ii) facilitate the achievement of the economic outcomes set for the area by *ShapingSEQ*.
- (e) I am satisfied the proposed TLPI will protect and give effect to this state interest by:
 - (i) altering the level of assessment for certain non-industrial uses from code assessment to impact assessment, thereby providing a more appropriate assessment framework for non-industrial uses where on industrial zoned land in the CRIP
 - (ii) introducing new assessment benchmarks for assessable development for a non-industrial use on industrial zoned land, to support the planning outcomes sought for the CRIP and
 - (iii) suspending the application of certain performance and assessment outcomes in the scheme, that do not appropriately support the intended outcomes for the CRIP.
- (f) Collectively, the provisions within the TLPI will ensure:
 - (i) accountable, effective and efficient assessment of proposed non-industrial development in the CRIP
 - (ii) the economic outcomes for the CRIP set out in *ShapingSEQ* are achieved.

Urgency

- 5.13 I am satisfied that the current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes identified for the CRIP by *ShapingSEQ*. Recent development assessment decisions made by the council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulate manner across the CRIP.
- 5.14 I am satisfied that the need for urgent action in this area is demonstrated by the department's understanding that there are proponents who are considering establishing significant non-industrial uses on industry zoned land within the CRIP. This includes the Brewdog hotel proposal and future development at The Depot and Heritage Quarter as part of the Rivermakers development.
- 5.15 I am satisfied that there is a significant likelihood that further non-industrial development will increasingly continue to occur in this area and the decision of the council to not take immediate action by progressing a council prepared TLPI, significantly increases the risk of serious adverse economic conditions resulting from further non-industrial development cumulatively undermining the existing and intended role and function of the area as a major industry precinct.
- 5.16 I am satisfied that these issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.
- 5.17 The proposed TLPI is an appropriate instrument that can address these issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.
- 5.18 On this basis, I consider it is necessary to urgently implement the TLPI.

Dated this 21 day of June 2021



STEVEN MILES MP
DEPUTY PREMIER
Minister for State Development, Infrastructure,
Local Government and Planning

Human Rights Impact Assessment

Introduction

The [Human Rights Act 2019](#) (HR Act) protects 23 human rights. The principal aim of the HR Act is to ensure that respect for human rights is embedded in the culture of our public sector. The HR Act requires public entities to:

- act and make decisions in a way that is compatible with human rights; and
- in making a decision, give proper consideration to any human rights relevant to the decision.

The HR Act applies to all Queensland public entities (including Ministers, Directors-General, the Coordinator-General, decision-makers, delegates, departments and public service employees). It also applies to an entity established under an Act, for example: South Bank Corporation, the Economic Development Board or the Queensland Reconstruction Authority.

The purpose of this assessment is to demonstrate how human rights have been considered for the below decision or action. This involved considering:

- whether any human rights protected by the HR Act are likely to be relevant to the decision/action
- whether there is potential for those identified human rights to be limited by the decision/action
- if there is potential for human rights to be limited by the decision/action, whether a less restrictive way of achieving the purpose of the decision/action is reasonably available
- if there is no less restrictive way of achieving the purpose of the decision/action, whether any limitation is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

Decision or action

The decisions involved:

- the Minister to take urgent action under section 27(1) of the *Planning Act 2016* (Planning Act) and make a temporary local planning instrument (TLPI) No. 02 of 2021 – Colmslie Road Industry Precinct (CRIP) (the proposed TLPI)
- the Minister to give notice to the Brisbane City Council (the council) in accordance with section 27(2) of the Planning Act of the intended action to make the proposed TLPI.

The purpose of the TLPI is to:

- continue to protect the integrity of land in the Industry zone within the CRIP for new and existing industry uses and enable new investment in industry to occur within the CRIP to provide economic benefits to the region and local area
- ensure incompatible non-industrial uses do not undermine the viability of and continued and future operation of, established and envisaged industrial development
- protect the effective operation of established and envisaged industrial uses by avoiding encroaching incompatible non-industrial development that may generate reverse amenity impacts.

1. Identify relevant human rights (refer to Appendix 1 for a full list of human rights)

The rights most likely to be relevant to the decision, include:

- section 15 – recognition and equality before the law

- section 21 – freedom of expression
- section 23 – taking part in public life, and
- section 24 – property rights (the right to own property and not be arbitrarily deprived of it).

2. Consider whether human rights will be limited by the decision or action

The decision **will not** potentially limit (or interfere with) the identified human rights in sections 15 and 23, as outlined below:

a) section 15 – recognition and equality before the law

- Section 15 provides that every person:
 - has the right to recognition as a person before the law and the right to enjoy their human rights without discrimination
 - is equal before the law and is entitled to equal protection of the law without discrimination. Every person is entitled to equal and effective protection against discrimination
- In summary, section 15 is concerned with policy, legislation or other actions that may be discriminatory.
- The proposed TLPI potentially affects some landowners and uses in the CRIP in changing the category of assessment for some types of non-industry uses (noting the majority of these uses were already categorised as impact assessable) and further strengthening assessment benchmarks relevant to these uses to discourage their commencement. For example, the proposed TLPI includes assessment benchmarks which require that proposed development that is subject to the TLPI to:
 - have a clear nexus with and that it is necessary to support the ongoing viable functioning of industrial activities within the CRIP;
 - not include a sensitive use; and
 - specifically, indoor sport and recreation and outdoor sport and recreation uses are not located on Industry zoned land within the CRIP.
- The process to make, or material effect of, the proposed TLPI is not considered to be discriminatory as the proposed TLPI will not apply differently to different people, rather it strengthens existing assessment rules for particular non-industrial development in existing industrial zones within a broad defined area that can be undertaken by any person. Therefore, this right is not being limited by the decision.

b) section 21 – freedom of expression

- Section 21 recognises the rights to hold and express opinions and the freedom to seek, receive and impart information and ideas of all kinds. This includes making decisions in relation to the provision of information or restrictions on access to information.
- The proposed TLPI refines the level of assessment and includes additional assessment benchmarks for certain non-industrial uses in the CRIP. The majority of non-industrial uses are already categorised as impact assessable in the existing planning scheme, the proposed TLPI will result in all non-industrial development subject to the TLPI being made impact assessable in this area and giving the opportunity for public objection and appeal and therefore freedom of expression is improved.

c) section 23 – taking part in public life

- Section 23 protects the rights and opportunities of every person in Queensland to take part in public life without discrimination. This includes the communication of information and ideas about public and political issues.

- To the extent this right relates to the public's ability to communicate information and ideas about public issues, this right has been identified as relevant however it is noted that the TLPI does not have any impact on electoral processes.
- Although the proposed TLPI may affect assessment processes for certain land uses and not others as mentioned above, it is considered that the proposed TLPI does not limit the human right under section 23 because it has no impact on an individual's right to participate in public life in terms of electoral processes.

d) section 24 – property rights

- Section 24 is concerned about decisions that include restricting the use of private property, including under planning laws.
- The proposed TLPI responds to the concerns of property owners within the CRIP, who have identified that the current *Brisbane City Plan 2014* (the planning scheme) does not adequately protect existing industrial uses on industrial zoned land from encroachment by incompatible non-industrial uses.
- The proposed TLPI may potentially impact on the use of private property. This is because the TLPI provides strengthened assessment requirements to support development assessment (and clearer regulation for unsupported uses), which could result in reduced development opportunities that otherwise would not have occurred under the current planning scheme. The TLPI may impact this human right in the following ways:
 - the proposed TLPI refines the levels of assessment for certain uses with the CRIP and contains provisions to refine the range of development types that the planning scheme could support.
 - the proposed TLPI provides a clear set of assessment benchmarks to inform the assessment of proposed development within the CRIP, which provides certainty and opportunities for property owners to develop their properties for desired uses whilst discouraging incompatible uses, that would already be generally undesirable under the existing planning scheme.

3. Determine whether the limit is reasonable and justifiable

The department's assessment has found that the decision **will** potentially limit (or interfere with) the identified human rights in section 21 (freedom of expression) and 24 (property rights).

The reasons why the limit is reasonable and justifiable is based on the following:

Section 21 – freedom of expression

a) The provisions are only temporary

- The proposed TLPI is a temporary measure that applies for up to two years and therefore limits on human rights only apply for a limited time.
- A TLPI is an appropriate instrument made under the Planning Act that can address planning issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme to reduce any ongoing impacts on this human right.

b) Community consultation will occur in the future

- The council will likely be required to integrate the policy intent of the TLPI through an amendment to the planning scheme. During this process, the community will have a chance to have their say on the provisions.
- During this process, the human rights of section 21 (freedom of expression) will be advanced.

c) Urgent action is required to respond to a state interest

- The planning scheme assessment criteria is currently allowing for inappropriate non-industrial development to occur, potentially as code assessable development. The proposed TLPI will strengthen community input into proposed development captured by the TLPI by making these applications impact assessable as well as strengthening planning controls to ensure development occurs in line with the overall intention of the planning scheme.
- The current planning scheme provisions present an immediate and ongoing risk to achieving the economic outcomes set for the CRIP by the South East Queensland Regional Plan 2017 (*ShapingSEQ*). Recent development assessment decisions made by council have demonstrated that the deficiencies of the current planning scheme provisions have the potential to adversely affect the ongoing operation of established and envisaged industrial uses by not sufficiently restricting encroaching incompatible non-industrial development that is currently occurring in a cumulative manner across the CRIP.
- These issues, and the consequential impact on business confidence in the area can only be corrected by urgent amendments to the planning scheme to strengthen provisions relating to non-industrial uses to ensure no further incompatible non-industrial uses are able to be established within the CRIP, until such time as further investigations into more permanent measures to protect the current of more permanent assessment arrangements can be implemented.
- A TLPI is an appropriate instrument that can address these issues urgently whilst appropriate review, drafting and consultation can occur on longer term amendments to the planning scheme.

d) The TLPI refines and clarifies the existing intent

Recent development approvals and appeals currently underway demonstrate that the current planning scheme provisions which regulate non-industrial uses on industrial land are not sufficient to ensure non-compatible uses that could result in reverse amenity impacts to existing and future industrial development are not supported in this area. Even though the planning scheme at a strategic level, intends to achieve this.

The council have also recognised a need to strengthen strategic provisions throughout planning scheme, to ensure incompatible uses do not encroach on industrial land and to clarify what uses may be considered as appropriate supporting uses on industrial land.

The proposed TLPI seeks to address this existing deficiency in the planning scheme by ensuring no further incompatible non-industrial uses can be established within the CRIP, until such time as further investigations into more permanent measures to protect the integrity and ongoing viability of this important industrial land for the intended industrial uses can be implemented.

Given the benefits to be achieved by the proposed TLPI and given the urgency as explained above, there is no other less restrictive way of achieving the outcome.

The proposed TLPI is considered appropriate despite the potential limitation on the human right of freedom of expression. Further, safeguards are incorporated into the TLPI in terms of the certainty of assessment arrangements and the public will have an opportunity to comment on relevant matters as part of a later planning scheme amendment process. In conclusion it is considered that the limitation of this right is reasonable and justifiable in accordance with section 13 of the Human Rights Act.

Section 24 – property rights

The proposed TLPI may potentially limit a person's right to develop their property within the boundary of the CRIP. This is because the TLPI provides clearer regulation for known unsupported

development, which has the effect of reducing the development opportunities for these uses, such as sport and recreation facilities in this area, which could have occurred under the current planning scheme.

Notwithstanding this potential new development, the department contends the proposed TLPI is seeking to strengthen existing planning scheme requirements which intend to restore an integrated, efficient, and accountable approach to development assessment to ensure that CRIP status under *ShapingSEQ* and its economic objectives are met.

The proposed TLPI has been drafted to ensure a balance that ensures proposed development non-industrial development within the CRIP does not compromise ongoing and future investment in industry to occur, while ensuring where these uses are appropriate, that they developed in a way that appropriately avoids or mitigates potential impacts of the use on available of industrial land in this area.

Having regard to the above considerations, the proposed TLPI is considered appropriate despite the potential limitation on the property rights of landowners within the CRIP. It is considered there is no other less restrictive way to achieve the purpose given the urgency and the current mismatch between the planning scheme and the outcomes stated in *ShapingSEQ*. In conclusion it is considered that the limitation of property rights is reasonable and justifiable in accordance with section 13 of the Human Rights Act.

Conclusion

The decision is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of that Act.

Appendix 1 – List of human rights

The [Human Rights Act 2019](#) sets out 23 protected human rights, which reflect the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These are:

- Right to recognition as a person and equality before the law (s15) *
- Right to life and right not to be arbitrarily deprived of life (s16) *
- Protection from torture and cruel, inhuman or degrading treatment (s17)
- Freedom from forced work – a person must not be held in slavery or servitude or made to perform forced or compulsory labour (s18) *
- Freedom of movement – a right to move freely within Queensland and leave and enter it and freedom to choose where to live (s19) *
- Freedom of thought, conscience, religion and belief (s20) *
- Freedom of expression which includes the right to hold an opinion and the freedom to seek, receive and impart information and ideas of all kinds (s21) *
- Right to peaceful assembly and freedom of association with others including the right to form and join trade unions (s22) *
- Right to participate in the conduct of public affairs including a right to vote (s23) *
- Right to own property and not be arbitrarily deprived of property (s24) *
- Right not to have privacy, family, home or correspondence unlawfully or arbitrarily interfered with and right not to have reputation unlawfully attacked (s25) *
- Protection of families and children (s26)
- Cultural rights – generally – all persons with a particular cultural, religious, racial or linguistic background have the right to enjoy their culture, to declare and practise their religion and use their language (s27) *
- Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (s28) *
- Right to liberty and security of person including a right not to be subjected to arbitrary arrest or detention (s29)
- Right to humane treatment when deprived of liberty (s30)
- Right to a fair hearing if charged with a criminal offence or a party to a civil proceeding (s31) *
- Rights in criminal proceedings including a right to be presumed innocent until proved guilty according to law (s32)
- Rights of children in the criminal process including a right to be segregated from all detained adults (s33)
- Right not to be tried or punished more than once for an offence for which the person has already been convicted or acquitted (s34)
- Protection against retrospective criminal laws including a right not to be found guilty of a criminal offence because of conduct that was not a criminal offence when it was engaged in (s35)
- Right to education (s36)
- Right to health services (s37).

*Note: there is potential for any human right to be relevant to the decision/action but the rights most likely to be relevant to the department's functions are indicated with an * above.*

Detailed information on the scope of each right, and examples of when the right may be relevant in practice are available from the Queensland Human Rights Commission: <https://www.qhrc.qld.gov.au/your-responsibilities/for-public-entities>.

Daniel Ryan

From: [Refused under section 47(3)(b) of the RTI Act]@kinneallymiley.com.au>
Sent: Thursday, 10 December 2020 4:26 PM
To: Pec Appeals
Subject: HPE CM: Cannon Hill Services Pty Ltd and Australian Country Choice Production Pty Ltd - V - Brisbane City Council & Anor - Attaching Notice of Appeal
Attachments: Letter to Chief Executive regarding service of Notice of Appeal (KML01004813).pdf; Notice of Appeal (sealed) filed 10.12.2020 (KML01004819).pdf
Follow Up Flag: Follow up
Flag Status: Completed
Categories: Dan Actioned

Dear Sir,

Please refer to the following attachments:

1. Correspondence; and
2. Notice of Appeal.

Hard copies of the attachments are being delivered to the address referred to in our correspondence.

Yours faithfully,

[Refused under section 47(3)(b) of the RTI Act]

[·] Kinneally Miley Law

[Refused under section 47(3)(b) of the RTI Act]

[Refused under section 47(3)(b) of the RTI Act]@kinneallymiley.com.au [T: +61 7 3210 5777] [A: Level 23, 110 Mary Street, Brisbane Q 4000]
[W: www.kinneallymiley.com.au]



Our office will be closed from 5.00pm Wednesday, 23 December 2020 to 9.30am Monday, 11 January 2021. We wish you the compliments of the season.



CAUTION ON MONEY TRANSFERS: There has been a recent increase in the number of attempted fraud cases relating to the transfer of money. Please ensure that you DO NOT deposit money to an account nominated by Kinneally Miley Law UNLESS you have first telephoned us on a known or separately verified number to verify the account number by phone. Conversely, we will not use bank account details supplied by you without verification by phone. Liability limited by a scheme approved under Professional

Standards Legislation. This email and any files transmitted with it are privileged and contain confidential information intended for the use of the addressee. The confidentiality and/or privilege in this email is not waived, lost or destroyed if it has been transmitted to you in error. If you received this email in error (a) you must not disseminate, copy or take any action in reliance on it; (b) please notify Kinneally Miley immediately by return email to the sender; and (c) please delete the original email. Whilst we regularly check for viruses we do not take responsibility for this and all recipients should undertake their own virus checking.

10 December 2020

By Express Post

The Chief Executive
Department of State Development, Infrastructure, Local Government and Planning
PO Box 15009
CITY EAST QLD 4002

And by email: pecappeals@dsdmip.qld.gov.au

Our ref: MJC 14901
Your ref:

Dear Sir

**GREG OVENDEN ON BEHALF OF CANNON HILL INVESTMENTS
PTY LTD AND AUSTRALIAN COUNTRY CHOICE PRODUCTION
PTY LTD -V - BRISBANE CITY COUNCIL & ANOR - PLANNING AND
ENVIRONMENT COURT APPEAL NO. 3451**

We act for the Appellant.

Enclosed, by way of service in accordance with s 230(3)(f) of the *Planning Act 2016* (Qld) is a sealed copy of our client's Notice of Appeal filed in the Planning and Environment Court at Brisbane on 10 December 2020.

Should you have any queries about this matter, please contact us.

Yours faithfully

Kinneally Miley Law

KINNEALLY MILEY LAW

Refused under section 47(3)(b) of the RTI Act



In the Planning and Environment Court
Held at: Brisbane

No. 3451 of 2020

Between: **GREG OVENDEN ON BEHALF OF CANNON HILL INVESTMENTS PTY LTD AND AUSTRALIAN COUNTRY CHOICE PRODUCTION PTY LTD TRADING AS AUSTRALIAN COUNTRY CHOICE GROUP (ACC)** Appellant

And: **BRISBANE CITY COUNCIL** Respondent

And: **RIVERMAKERS WELLNESS & RESEARCH CENTRE PTY LTD** Co-Respondent

NOTICE OF APPEAL

Filed on /12/2020

Filed by: Kinneally Miley Law
Service address: Level 23, 110 Mary Street, Brisbane QLD 4000
Phone: (07) 3210 5709
Email: michael.coe@kinneallymiley.com.au

GREG OVENDEN ON BEHALF OF CANNON HILL INVESTMENTS PTY LTD AND AUSTRALIAN COUNTRY CHOICE PRODUCTION PTY LTD TRADING AS AUSTRALIAN COUNTRY CHOICE GROUP (ACC) of c/- Kinneally Miley Law, Level 23, 110 Mary Street, Brisbane in the State of Queensland hereby appeals to the Planning and Environment Court at Brisbane against the decision of the Respondent, dated 9 November 2020, to approve, subject to conditions, the Co-Respondent's development application for a development permit for a material change of use for indoor sport and recreation (the **development application**) in respect of land situated at 32 Colmslie Road and 500 Lytton Road, Morningside and described as Lot 2 on SP303654 and Lot 0 on SP283395 (the **land**) and seeks the following orders or Judgment:

- A. the appeal be allowed;
- B. the development application be refused;
- C. any other orders the Court deems appropriate.

The **grounds of appeal** are:

The land is:

1. Described as Lot 2 on SP303654 and Lot 0 on SP283395;



NOTICE OF APPEAL

Filed on behalf of the Appellant
Form PEC-1

KINNEALLY MILEY LAW

Level 23
110 Mary Street
BRISBANE QLD 4000
Tel: (07) 3210 5709
Email: michael.coe@kinneallymiley.com.au

{MJC\14901\01004800-002.docx}

- 1.2 Located at 32 Colmslie Road and 500 Lytton Road, Morningside;
- 1.3 Situated within the Industry Zone and, more particularly, in part in the General Industry A Precinct and in part in the General Industry B Precinct pursuant to the terms of the Respondent's Planning Scheme, City Plan 2014 (**City Plan**).
- 2 On or about 29 April 2020 the Co-Respondent lodged the development application with the Respondent.
- 3 The development application was impact assessable.
- 4 The Appellant lodged a properly made submission with respect to the development application.
- 5 By way of Decision Notice dated 9 November 2020 (the **Decision Notice**) the Respondent approved the development application.
- 6 By letter dated 1 December 2020 a copy of the Decision Notice was provided to the Appellant.
- 7 The development application should be refused having regard to the matters set out in paragraphs 8 through 24, below.
- 8 The development application:
 - 8.1 Proposes a use that is of a scale and form that is not consistent with the land use intent for the site;
 - 8.2 Is for a non-industrial facility that does not reasonably provide a direct nexus or support to industrial activities and cannot reasonably be considered to be for the convenience of industrial workers. It is a facility intended to service a catchment beyond the surrounding industry zone,

and in this regard, it is inconsistent with the following assessment benchmarks:

8.3 City Plan:

- 8.3.1 Part 3 Strategic Framework, 3.3 Theme 1: Brisbane's globally competitive economy:
 - 8.3.1.1 Section 3.3.1 Strategic Outcome 1(h);
 - 8.3.1.2 Section 3.3.3 Element 1.2 – Brisbane's industrial economy, Table 3.3.3.1, SO1, L1.1, SO2, S2.1, SO4, L4;
 - 8.3.1.3 Section 3.7.1 Strategic Outcome 1(c)(iv);
- 8.3.2 Part 6.2.5.2 Industry Zone Code:
 - 8.3.2.1 Section (1);
 - 8.3.2.2 Section (4) (b), (e), (g);
 - 8.3.2.3 Section (6);

- 8.3.2.4 Section (7) (a), (b);
 - 8.3.3 Part 7.2.18.3 River Gateway Neighbourhood Plan Code:
 - 8.3.3.1 Section 7.2.18.3.2 (3)(c), (3)(e), (8)(a);
 - 8.3.3.2 Section 7.2.18.3.3, Table 7.2.18.3.3.A PO1 (a), (d);
 - 8.3.4 Part 9.3.3 Centre or Mixed Use Code:
 - 8.3.4.1 Section 9.3.3.2(2) (a), (b), (c), (g);
 - 8.3.5 Part 9.3.11 Indoor Sport and Recreation Code:
 - 8.3.5.1 Section 9.3.11.2(2)(b);
 - 8.3.5.2 Section 9.3.11.3, Table 9.3.11.3.A, PO3;
 - 8.4 South East Queensland Regional Plan 2017 (*ShapingSEQ*):
 - 8.4.1 Chapter 3, Part A, Goal 2: Prosper:
 - 8.4.1.1 Element 5, Strategy 5.
 - 9 The development application:
 - 9.1 Does not appropriately recognise the economic significance of the Major Industry Areas and Industry Zone designations of City Plan and the Australia TradeCoast Regional Economic Cluster and Murarie/Colmslie Major Enterprise and Industrial Area of *ShapingSEQ* and protect this area from encroachment from incompatible uses;
 - 9.2 Will introduce a non-industrial use that is not intended in the locality in which the land is located and operationally is incompatible with existing and intended uses on the land and in the surrounding area,
- and in this regard, it is inconsistent with the following assessment benchmarks:
- 9.3 City Plan:
 - 9.3.1 Part 3 Strategic Framework, 3.3 Theme 1: Brisbane's globally competitive economy:
 - 9.3.1.1 Section 3.3.1 Strategic Outcomes (1) (g), (h), (i);
 - 9.3.1.2 Section 3.3.3 Element 1.2 – Brisbane's industrial economy, Table 3.3.3.1, SO1, L1.1, L1.4, SO2, L2.1;
 - 9.3.1.3 Section 3.7.1 Strategic Outcomes (1)(c) (i), (ii), (iii);
 - 9.3.2 Part 6.2.5.2 Industry Zone Code:
 - 9.3.2.1 Section (1);
 - 9.3.2.2 Section (4)(a);

9.3.2.3 Section (6) (a), (b), (c);

9.3.2.4 Section (7) (a), (b);

9.3.3 Part 7.2.18.3 River Gateway Neighbourhood Plan Code

9.3.3.1 Section 7.2.18.3.2 (3)(c), (3)(e), (8)(a);

9.3.3.2 Section 7.2.18.3.3, Table 7.2.18.3.3.A PO1;

9.4 *ShapingSEQ*:

9.4.1 Chapter 3, Part A, Goal 2: Prosper:

9.4.1.1 Element 1, Strategy 5;

9.4.1.2 Element 2, Strategies 1, 2;

9.4.1.3 Element 5, Strategies 1, 2;

9.4.2 Chapter 3, Part C, Metro Sub-Region, Sub Regional Outcomes, Outcomes for Prosper, Regional Economic Clusters, 8 b. Australia TradeCoast.

10 The development application:

10.1 Will deter industrial uses from investing and/or establishing in the Industry Zone/Major Industry Area (City Plan) and Major Enterprise and Industrial Area (*ShapingSEQ*) due to proximity to a non-industrial use (i.e. that is proposed in the development application) of this scale and form;

10.2 Has the potential to act as a catalyst for other non-industrial uses to move into this industrial precinct/locality, furthering the impacts that would otherwise be associated with the proposed development alone,

and in this regard, it is inconsistent with the following assessment benchmarks:

10.3 City Plan:

10.3.1 Part 3 Strategic Framework, 3.3 Theme 1: Brisbane's globally competitive economy:

10.3.1.1 Section 3.3.1 Strategic Outcomes (1) (h), (i);

10.3.1.2 Section 3.3.3 Element 1.2 – Brisbane's industrial economy, Table 3.3.3.1, SO1, L1.2, SO8, L8.2;

10.3.1.3 Section 3.3.4 Element 1.3 – Brisbane's population - serving economy, Table 3.3.4.1, SO7, L7;

10.3.2 Part 6.2.5.2 Industry Zone Code:

10.3.2.1 Section (1)(b)(ii);

10.3.2.2 Section (4) (a), (e);

10.3.2.3 Section (6) (a), (b), (c);

10.3.2.4 Section (7) (a), (b);

10.3.3 Part 7.2.18.3 River Gateway Neighbourhood Plan Code:

10.3.3.1 Section 7.2.18.3.2 (3) (c), (3)(e), (8)(a);

10.3.3.2 Section 7.2.18.3.3, Table 7.2.18.3.3.A PO1(d), PO1(e);

10.4 *ShapingSEQ*:

10.4.1 Chapter 3, Part A, Goal 2: Prosper;

10.4.2 Element 5, Strategy 2.

- 11 The development application proposes a development that is able to be, and should reasonably be, accommodated elsewhere in the Respondent's Local Government Area and in this regard, it is inconsistent with the following assessment benchmarks:

11.1 City Plan:

11.1.1 Part 3 Strategic Framework, 3.7 Theme 5: Brisbane's CityShape:

11.1.1.1 Section 3.7.1 Strategic Outcome (1)(c)(v).

- 12 The development application:

12.1 Will introduce traffic movements beyond those reasonably expected or typically generated by industrial and other uses reasonably intended for the land;

12.2 Will introduce a significant amount of non-industrial traffic to an industrial area;

12.3 Will result in conflicts between industrial and non-industrial traffic and will compromise the efficient operation of existing industrial activities that rely on the surrounding road network,

and in this regard, it is inconsistent with the following assessment benchmarks:

12.4 City Plan:

12.4.1 Part 3 Strategic Framework, 3.6 Theme 4: Brisbane's highly effective transport and infrastructure:

12.4.1.1 Section 3.6.1 Strategic Outcomes (1), 4(a), insofar as they relate to the Transport Infrastructure Network;

12.4.1.2 Section 3.6.2, Table 3.6.2.1, SO1, L1.1, SO2, L2.1;

12.4.2 Part 6.2.5.2 Industry Zone Code:

12.4.2.1 Section (5)(b);

12.4.3 Part 8.2.18 Road Hierarchy Overlay Code:

- 12.4.3.1 Section 8.2.18.2(2) (a), (c), (f);
- 12.4.3.2 Section 8.2.18.3, Table 8.2.18.3, PO2, AO2.1;
- 12.4.4 Part 9.3.3 Centre or Mixed Use Code:
 - 12.4.4.1 Section 9.3.3.2 (2)(b);
 - 12.4.4.2 Section 9.3.3.3, Table 9.3.3.3.A, PO13(b);
- 12.4.5 Part 9.4.11 Transport, Access, Parking and Servicing Code:
 - 12.4.5.1 Section 9.4.11.2(2) (c), (d), (g);
 - 12.4.5.2 Section 9.4.11.3, Table 9.4.11.3, PO1, AO1;
- 12.5 *ShapingSEQ*:
 - 12.5.1 Goal 3: Connect:
 - 12.5.1.1 Element 1, Strategies 1, 3.
- 13 The development application does not appropriately recognise and/or respond to the importance of and protect the major transport infrastructure, specifically the freight routes, which service the Major Industry Area and Industry Zone in which the land is located and in this regard, it is inconsistent with the following assessment benchmarks:
 - 13.1 City Plan:
 - 13.1.1 Part 3 Strategic Framework, 3.3 Theme 1: Brisbane's globally competitive economy:
 - 13.1.1.1 Section 3.3.1 Strategic Outcome (1)(f);
 - 13.1.1.2 Section 3.3.3 Element 1.2 – Brisbane's industrial economy SO5, L5.1;
 - 13.1.2 Part 3 Strategic Framework, 3.6 Theme 4: Brisbane's highly effective transport and infrastructure:
 - 13.1.2.1 Section 3.6.1 Strategic Outcomes (1), 4(a), insofar as they relate to the Transport Infrastructure Network;
 - 13.1.2.2 Section 3.6.2 SO1, L1.1, SO2, L2.1, SO4, L4, SO11, L11, SO12, L12, SO15, L15.1, L15.2;
 - 13.1.3 Part 3 Strategic Framework, 3.7 Theme 5: Brisbane's CityShape:
 - 13.1.3.1 Section 3.7.1 Strategic Outcome 1(c)(vi)(B);
 - 13.1.3.2 Section 3.7.3 Element 5.2 – Brisbane's Major Industry Areas, Table 3.7.3.1, SO1;
 - 13.1.4 Part 7.2.18.3 River Gateway Neighbourhood Plan:

13.1.4.1 Section 7.2.18.3.2 (3)(c);

13.1.5 Part 8.2.18 Road Hierarchy Overlay Code:

13.1.5.1 Section 8.2.18.2 (2)(f);

13.1.6 Part 9.4.11 Transport, Access, Parking and Servicing Code:

13.1.6.1 Section 9.4.11.2(2) (c), (e);

13.1.6.2 Section 9.4.11.3, Table 9.4.11.3, PO1, AO1;

13.2 *ShapingSEQ*;

13.2.1 Goal 2: Prosper:

13.2.1.1 Element 1, Strategy 3;

13.2.1.2 Element 5, Strategy 1;

13.2.2 Goal 3: Connect:

13.2.2.1 Element 1, Strategies 1, 3.

14 The development application:

14.1 Relies on, in context significant, road upgrades that have not occurred and are not (by either the Respondent or any other person) committed or adequately funded works;

14.2 Does not adequately contribute to the upgrade of the existing trunk road network to accommodate the traffic impacts associated with the use;

14.3 Is inconsistent with the planning assumptions with respect to the type, scale and location of development and demand for the trunk infrastructure network,

and in this regard, it is inconsistent with the following assessment benchmarks:

14.4 City Plan:

14.4.1 Part 3 Strategic Framework, 3.6 Theme 4: Brisbane's highly effective transport and infrastructure:

14.4.1.1 Section 3.6.1 Strategic Outcomes 1, 2, 3;

14.4.1.2 Section 3.6.2, Table 3.6.2.1, SO3, L3;

14.4.2 Part 7.2.18.3 River Gateway Neighbourhood Plan:

14.4.2.1 Section 7.2.18.3.2 (3)(e);

14.4.3 Part 8.2.18 Road Hierarchy Overlay Code:

14.4.3.1 Section 8.2.18.2(2) (a), (c), (f);

- 14.4.3.2 Section 8.2.18.3, Table 8.2.18.3, PO3, PO3A(b);
- 14.4.4 Part 9.4.11 Transport, Access, Parking and Servicing Code:
 - 14.4.4.1 Section 9.4.11.2 (2) (c), (e), (l);
 - 14.4.4.2 Section 9.4.11.3, Table 9.4.11.3, PO1, AO1;
- 14.4.5 Part 4 Local Government Infrastructure Plan:
 - 14.4.5.1 Section 4.1(2) (a), (d);
 - 14.4.5.2 Section 4.2 (1), (2);
 - 14.4.5.3 Section 4.2.3 (1).
- 15 The development application relies on vehicle access arrangements that have been approved for low traffic generating industrial uses. The use of these access arrangements for the development application will have adverse impacts on the efficiency and safety of the transport network and other development and properties in the vicinity of the land. In this regard, the development application is inconsistent with the following assessment benchmarks:
 - 15.1 City Plan:
 - 15.1.1 Part 8.2.18 Road Hierarchy Overlay Code:
 - 15.1.1.1 Section 8.2.18.1 (2)(a);
 - 15.1.1.2 Section 8.2.18.3, Table 8.2.18.3, PO1, AO1.1;
 - 15.1.2 Part 9.3.3 Centre or Mixed Use Code:
 - 15.1.2.1 Section 9.3.3.2 (2)(b);
 - 15.1.2.2 Section 9.3.3.3, Table 9.3.3.3.A, PO13(a);
 - 15.1.3 Part 9.4.11 Transport, Access, Parking and Servicing Code:
 - 15.1.3.1 Section 9.4.11.2(2) (a), (c), (e), (f);
 - 15.1.3.2 Section 9.4.11.3, Table 9.4.11.3, PO1, AO1, PO3, AO3.1, PO9, AO9.1, AO9.2.
- 16 The traffic data and assumptions relied on to assess the impacts of the development application on the external road network have not been independently analysed or assessed in the context of the development application. The data and assumptions relied on are, instead, relevant to low traffic generating industrial and warehouse uses only and cannot reasonably be relied on for the purposes of considering and assessing the impacts of the development application. In this regard, the development application is inconsistent with the following assessment benchmarks:
 - 16.1 City Plan:
 - 16.1.1 Part 9.4.11 Transport, Access, Parking and Servicing Code:

16.1.1.1 Section 9.4.11.3, Table 9.4.11.3, PO1(a), AO1.

- 17 The cumulative traffic impacts of the development application have not been considered in the context of the wider development of 'The Depot' or 'Rivermakers' development of which the land and the development application forms a part. In this regard, the development application is inconsistent with the following assessment benchmarks:

17.1 City Plan:

17.1.1 Part 9.4.11 Transport, Access, Parking and Servicing Code:

17.1.1.1 Section 9.4.11.3, Table 9.4.11.3, PO1, AO1.

- 18 The development application:

18.1 Provides insufficient carparking to service the development application;

18.2 Does not adequately address the potential for peak parking demand overlaps between the development application and other industry and warehouse activities that are intended/approved for the balance of 'The Depot' or 'Rivermakers' development of which the land and the development application forms a part.

and in this regard, it is inconsistent with the following assessment benchmarks:

18.3 City Plan:

18.3.1 Part 9.3.3 Centre or Mixed Use Code

18.3.1.1 Section 9.3.3.2 (2)(m);

18.3.1.2 Section 9.3.3.3, Table 9.3.3.3.A, PO13(c);

18.3.2 Part 9.3.11 Indoor Sport and Recreation Code:

18.3.2.1 Section 9.3.11.2 (2)(e);

18.3.3 Part 9.4.11 Transport, Access, Parking and Servicing Code:

18.3.3.1 Section 9.4.11.2(2) (a), (j)(ii);

18.3.3.2 Section 9.4.11.3, Table 9.4.11.3, PO1, AO1, PO13, AO13, PO14, AO14.1.

- 19 The development application will result in adverse and unreasonable 'reverse amenity' constraints being placed upon the lawful operation of present and future industrial uses as intended/approved on the land and adjoining industry zoned/designated properties. Said issues:

19.1 Result in the development application being inconsistent with the following assessment benchmarks from City Plan:

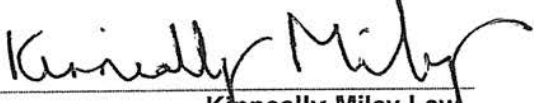
19.1.1 Part 9.3.3 Centre or Mixed Use Code:

19.1.1.1 Section 9.3.3.2 (2) (a), (b), (c), (e)(i), (g)

19.1.1.2 Section 9.3.3.3, Table 9.3.3.3.A, PO14, A014;

19.2 Are a relevant matter, within the meaning of the *Planning Act 2016* (***Planning Act***) that speaks against approval of the development application.

- 20 There is no planning, economic or community need for the development application.
- 21 The land has been developed in an incremental and piecemeal manner to establish a built form, access arrangements, carparking provision and use intent that is inconsistent with the intent of the Industry Zone and Major Industry Area designations as they apply to the land and its locality more generally. The impacts of these matters and the wider use implications and traffic impacts of the development of which the development application forms a part have not been appropriately assessed and, if they were, would speak against approval of the development application.
- 22 The imposition of a temporary use condition, as proposed in the Decision Notice and/or otherwise, does not overcome the extent of inconsistency with City Plan and *ShapingSEQ*.
- 23 The development application conflicts with the reasonable expectations for development in the locality.
- 24 There are no relevant matters that warrant approval of the development application.
- 25 In the premises, the appeal should be allowed and the development application should be refused.


Kinneally Miley Law
Solicitors for the Appellant
10/12/2020

- N.B** If you are named as a Respondent in this Notice of Appeal and wish to be heard in this appeal you must:
- (a) within 10 days after being served with a copy of this Notice of Appeal, file an Entry of Appearance in the Registry where this Notice of Appeal was filed or where the court file is kept; and
 - (b) serve a copy of the Entry of Appearance on each other party.

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

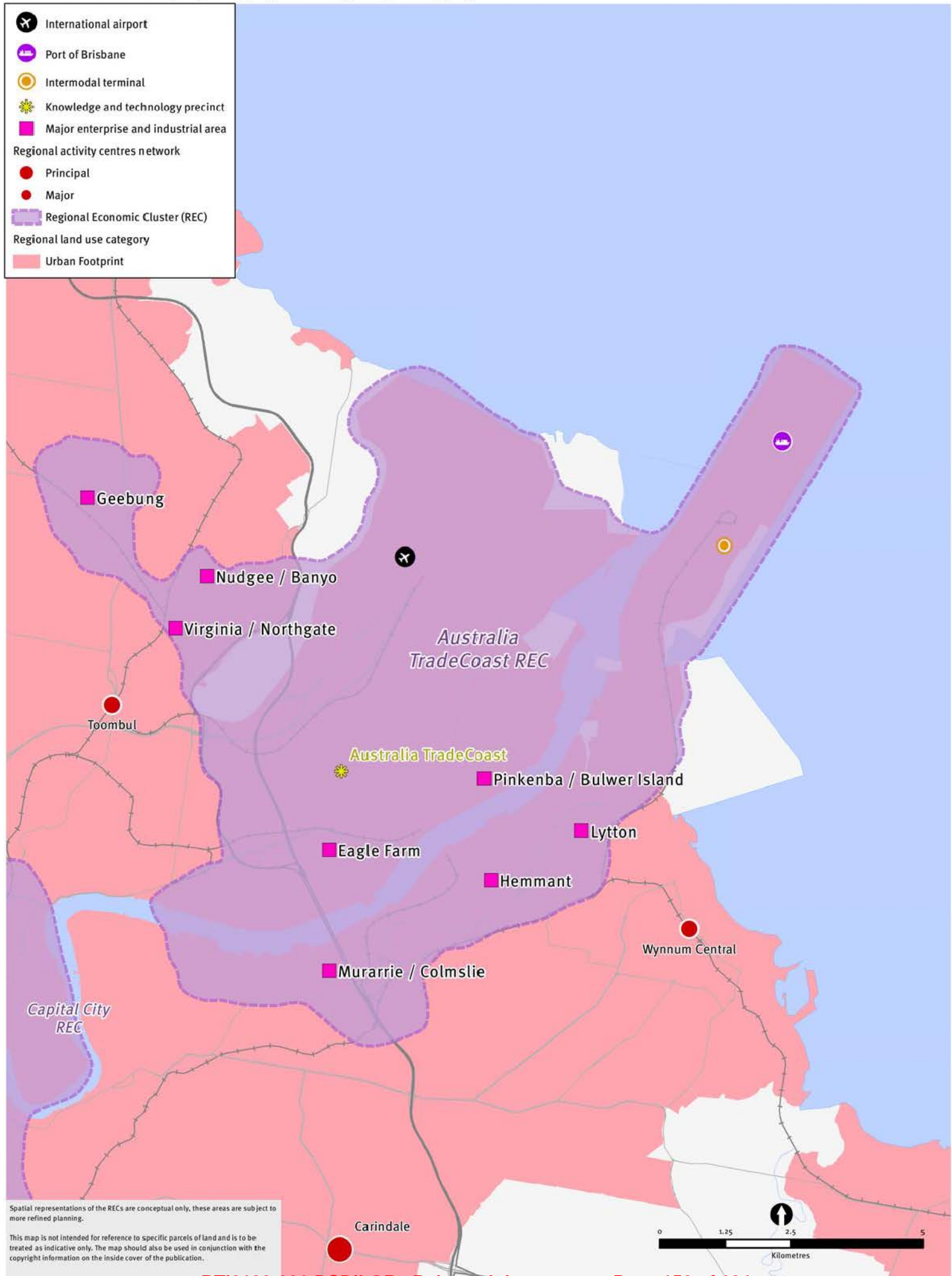
If you are entitled to elect to be a party to this appeal and you wish to be heard in this appeal you must:

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

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

Australia TradeCoast Regional Economic Cluster

Extracted from ShapingSEQ (August 2017) prosper mapping



From: [Refused under section 47(3)]<[redacted]@reelplanning.com>
Sent: Friday, 19 March 2021 3:58 PM
To: Kerry DOSS
Cc: [Refused under section 47(3)]
Subject: HPE CM: ACC - Options for State Support
Attachments: 210317 ACC Options State Support (3).pdf; IMG_3198.jpg; IMG_3199.jpg; IMG_3197.jpg; DOC100321.pdf

Afternoon Kerry

Please see attached the table of potential State actions presented to Damian and Dave at ACC on Wednesday afternoon.

While I think all are important considerations for the State to consider I would like to emphasise with you the opportunity for a TLPI and why this should be urgently considered.

For several years now BMI have treated the approx. 30 hectare Rivermakers site as a blank canvas and ignored the fact that it is included in a Major Industry Area. Consistent with their early promotional material, they appear to be in the throes of establishing a significant retail showroom/gym complex toward the Lytton Road end of the site and appear to be in the process of establishing their James street themed eateries, artisans, function and entertainment node toward the river end of the site. In between, around Dunhill Crescent, while there is some legitimate warehouse and industry there are also many small tenancies established which will become a compliance nightmare.

All this is happening adjacent to genuine major industry operations in the Australia Trade Coast with clear land use incompatibility in addition to there being inadequate road infrastructure.

In relation to the riverfront development we inspected the proposed 300 seat restaurant attached to the Revel brewery yesterday with our legal team as part of the current legal proceedings. The deficiencies we pointed out to Council assessing officers are evident and we expect that this matter will proceed to trial in May, as scheduled.

What was mind bogglingly evident while out on site was the extent of other built form and hard stand improvements in progress on land that is adjacent to the brewery. Construction is well underway presumably through building certification approvals for accepted development such as "warehouse" or "industry". We were not permitted to inspect these improvements except from a distance .

Our review of PD online shows no development applications or approvals other than the brewery and food and drink outlet and despite our questions BMI representatives would not be drawn on what was going on.

You will see some of the photos I have taken attached (of building 9 on the attached plans). This building measures approximately 1000sqm and sits immediately to the west of the brewery and proposed restaurant. It is clear from the photos that extensive and advanced work is underway on a fully glassed in building. As with the showroom complex and gym, this is another case of moving ahead with the BMI vision regardless of the implications.

In our opinion, the actions by BMI to date completely undermine the integrity of City Plan 2014 and the Planning system generally. Our client appears to be almost single handily upholding the planning scheme in circumstances where this is both a Council and State interest.

We fully expect a development application to be forthcoming shortly, to legitimise all the current work underway. This will likely be a variation request over both the Depot and the riverfront part of the Rivermakers site.

I wanted to emphasise the opportunity for a TLPI because it can:

1. Prohibit development or at least change the level of assessment by introducing a table of assessment for the Industry precinct of the River Gateway neighbourhood plan that over-rides the zone table of assessment
2. Introduce a range of more robust overall outcomes and specific outcomes for the Industry precinct of the Neighbourhood Plan
3. Amend the strategic framework and overlay provisions dealing with the freight network so it is not just a focus on the higher order mapped roads in the planning scheme
4. Amend the Industrial amenity overlay provisions.

I feel that there is a need to act urgently on this.


Happy to discuss any of the above.

Refused under section 47(3)(b) of the RTI Act

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Rivermakers HQ - Hans Site issued with Show Cause

Refused under section 47(3)(b) of the RTI Act
reelplanning.com>

Mon 21/06/2021 4:21 PM

To: Kerry DOSS <Kerry.Doss@dcdilgp.qld.gov.au>

3 attachments (6 MB)

210300 RSEA Enforcement Notice.pdf; 210216 Stone3 Enforcement Notice.pdf; 210617 HQ DES Show Cause Notice.pdf;

Afternoon Kerry,

You may already be aware, but it has come to my attention that the Department of Environment and Science (DES) issued a Show Cause notice to Dunhill Properties last Thursday 17 June 2021 regarding unlawful works to the State heritage place at 82 Colmslie Road, Morningside. The works specifically relate to:

- The relocation of Building 8
- The resurfacing of a driveway

I have attached a copy of the Show Cause for your information.

Separate to this, Dunhill Properties lodged a development application to Council (with referral to SARA) for building works on a local and State heritage place over the same site in May 2021 (A006728797). SARA has only recently issued a confirmation notice acknowledging they have received the application and their information request period ends this Friday 25 June. Council issued an information request on 17 June 2021. The applicant is yet to respond to that. That application seeks approval for various works, including retrospective assessable demolition and building works on the State heritage place that have already been carried out.

This Show Cause is in addition to two Enforcement Notices that have also been issued by Council over The Depot development at the Lytton Road frontage of the Rivermakers site to:

- RSEA regarding the operation of a large Shop
- Stone3 regrading the operation of a Hardware and Trade Supplies premises

Both the above are attached for your reference.

Council has also been alerted to the commencement of the gourmet butcher shop and cooking classes in the new glass "warehouse" building on the old Hans site and we expect a further Show cause notice to also be issued with respect to that use shortly.

Regards,

Refused under section 47(3)(b) of the RTI Act

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RE: PC study

Refused under section 47(3)(b) of the

reelplanning.com>

Tue 25/05/2021 11:23 AM

To: Kerry DOSS <Kerry.Doss@dsdilgp.qld.gov.au>

Thanks Kerry

Refused under section 47(3)(b) of the RTI Act

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From: Kerry DOSS <Kerry.Doss@dsdilgp.qld.gov.au>

Sent: Tuesday, 25 May 2021 11:19 AM

To: Refused under section 47(3) of the RTI Act <reelplanning.com>

Subject: PC study

Hi

Refused

Report as discussed.

<https://www.pc.gov.au/research/completed/vic-commercial-zoning>



Kerry Doss

State Planner & Deputy Director-General

Planning Group

Department of State Development, Infrastructure,
Local Government and Planning

P 3452 7909 M Refused under section 47(3)(b) of the RTI Act

Level 13, 1 William Street, Brisbane QLD 4000
PO Box 611, Brisbane QLD 4001

statedevelopment.qld.gov.au



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RE: as discussed

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reelplanning.com>

Tue 29/06/2021 12:49 PM

To: Kerry DOSS <Kerry.Doss@dsdilgp.qld.gov.au>

Thanks Kerry

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w: www.reelplanning.com



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From: Kerry DOSS <Kerry.Doss@dsdilgp.qld.gov.au>

Sent: Tuesday, 29 June 2021 12:45 PM

To: Refused under section 47(3) of the RTI Act
reelplanning.com>

Subject: as discussed

<https://planning.dsdmip.qld.gov.au/planning/better-planning/local-planning>

<https://dsdmipprd.blob.core.windows.net/general/29-09-2021-tlpi-colmslie-road-industry-precinct.pdf>

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SHORT TERM ACTIONS	LONG TERM ACTIONS
<p>1. Direct Brisbane City Council to introduce a Temporary Local Planning Instrument:</p> <ul style="list-style-type: none"> a. Direct Council to introduce a Temporary Local Planning Instrument b. TLPI could: <ul style="list-style-type: none"> i. Make non-industrial uses impact assessable ii. Include assessment benchmarks in the Neighbourhood Plan, Zone and Use Codes discouraging non-industrial uses and protect ACC and other industry 	<p>1. Direct Brisbane City Council to carry out Neighbourhood Planning:</p> <ul style="list-style-type: none"> a. Direct Council to carry out neighbourhood planning for ACC and adjoining land, including Rivermakers development. b. Direct Council to withhold any further decisions until Neighbourhood Planning complete. c. Including protection measures through the Neighbourhood Plan Code (overall outcomes and performance outcomes) and reflected in the Strategic Framework to specifically identify and protect the operation of ACC. d. Potential for Industrial Amenity Overlay to apply to ACC land, and widen the scope from protection from sensitive uses to include other uses
<p>2. Introduce a Temporary State Planning Policy:</p> <ul style="list-style-type: none"> a. Include assessment benchmarks to adequately protect ACC as a state interest – i.e. make non-industrial land uses inconsistent, require separation distances 	<p>2. Provide Protection through the Planning Regulation 2017</p> <ul style="list-style-type: none"> a. Introduce protection through the Planning Regulation, Schedule 10 <ul style="list-style-type: none"> i. Identify an affected area around ACC, similar to the off-road motorcycling facility provisions (Part 11) ii. Prohibit particular uses iii. Make particular uses impact assessable iv. Prescribe assessment benchmarks through an SDAP code – i.e. Achieve adequate separation from ACC facility v. Require referral to the State
<p>3. Call in the Revel Brewery Development Application and Approval.</p> <ul style="list-style-type: none"> b. Council has recently approved a code assessable development application by Revel brewery for a 300 seat restaurant in circumstances where the planning scheme calls for a Food and drink outlet that is low key in scale, nature and employment and of an appropriate size to serve the needs of the local workforce. c. The assessment of the application describes Rivermakers as being “a mixed commercial estate/business park”. This assessment is flawed given the underlying Industrial zoning and the location of the site in a Major Industry Area. 	

SHORT TERM ACTIONS	LONG TERM ACTIONS
	<p>4. Refinement of the Urban Encroachment legislation to suit ACC's circumstances:</p> <ul style="list-style-type: none"> a. The State has generally supported the urban encroachment designation over the ACC site and surrounds b. ACC has begun that process, however have been delayed due to a number of factors including progressing Minor Change Application noted in (2) below. c. Notwithstanding, if the urban encroachment designation is approved by the State, the urban encroachment legislation in its current form may not afford ACC much protection, particularly from recent developments that have progressed in the immediate locality ahead of any designation determination. d. The State can support ACC by considering amendments to the legislation to reflect the ACC context and afford ACC practical protection from recent and future applications.
<p>5. Rivermakers Variation Application:</p> <ul style="list-style-type: none"> a. We understand that Rivermakers may be seeking a variation application to part or all of their land to allow for other (likely commercial / retail) activities. b. The State refusing (whether through referral or other mechanism – i.e. call in) such an application would assist in protecting ACC and the wider industrial zone from incompatible uses. 	
<p>6. BrewDog Expansion – 77 Metroplex Avenue, Murarrie:</p> <ul style="list-style-type: none"> a. https://theurbandeveloper.com/articles/brewdog-australias-first-craft-beer-hotel b. Intended expansion of existing facility including function spaces and a new hotel – short term accommodation c. Brewdog is a short distance to the east of ACC and within the same industrial precinct d. These applications, if approved, will further erode the protection of the industry zone for intended industrial purposes. e. The State can support ACC by not encouraging or supporting these applications 	

SHORT TERM ACTIONS	LONG TERM ACTIONS
7. Temporary Use Licenses: a. Do not permit any further temporary use licences for non-industrial activities in the Rivermakers development.	
8. Funding of major road upgrades: a. Provide funding to support the upgrade of Lytton Road and Colmslie Road b. Provide funding to support a new vehicle access to ACC's land in proximity to the Barrack Road / Lytton Road intersection.	

Existing Carparks	121
Existing disabled carparks	3
Total	124

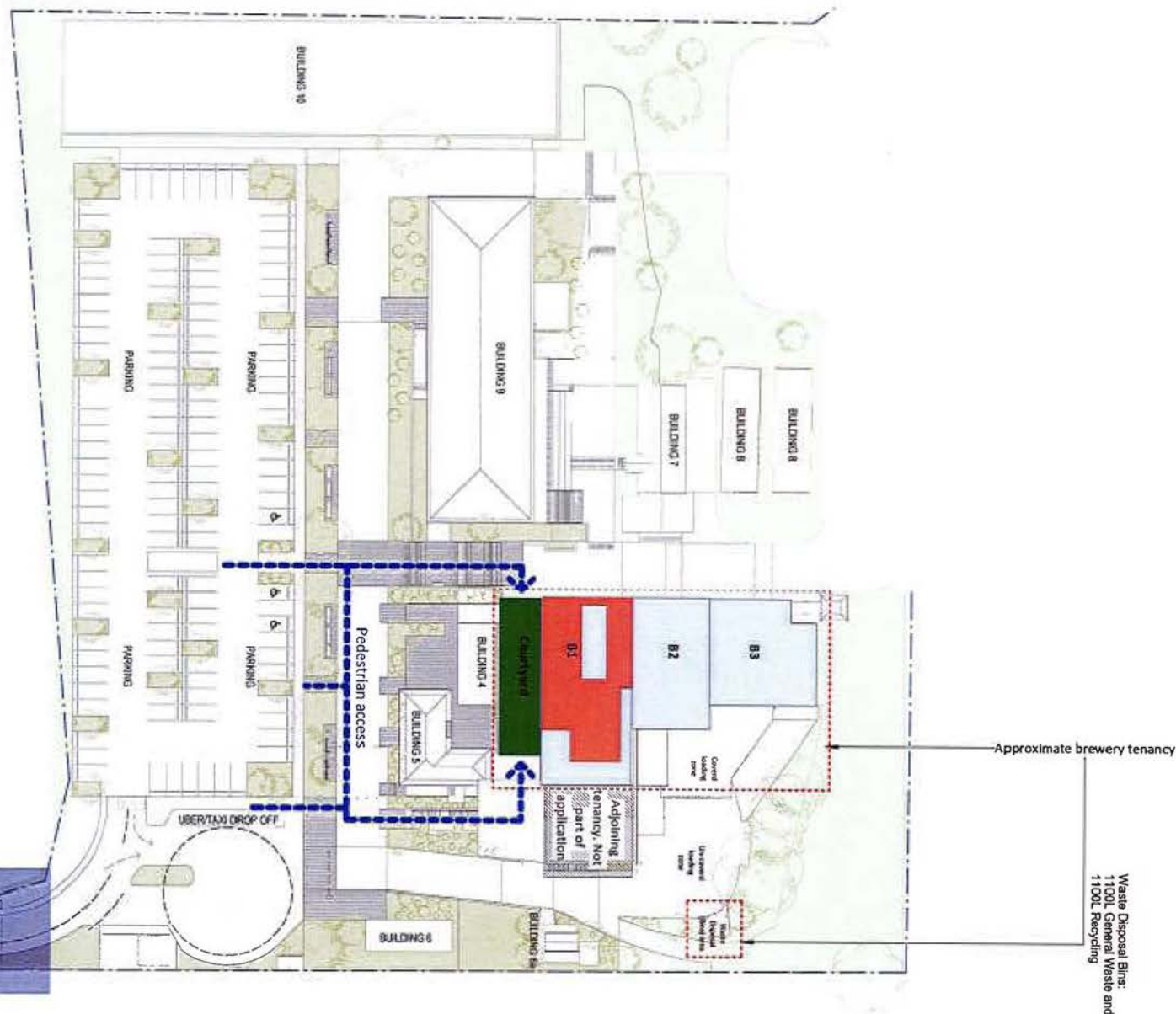
 Food & drink	250m ²
 Brewery (high impact industry)	538m ²
 Outdoor dining	180m ²

THIS APPROVAL SHOULD NOT BE TAKEN TO CONSTITUTE PERMISSION TO ENTER NEIGHBOURING PROPERTIES TO CONSTRUCT (INCLUDING ASSOCIATED WORKS SUCH AS CHAINAGE AND EXCAVATION) ANY BUILT TO BOUNDARY WALL OR FENCES. PERMISSION MUST BE OBTAINED FROM RELEVANT PROPERTY OWNERS.

PLANS AND DOCUMENTS
referred to in the
APPROVAL
Dated: 23/02/2021

Refer to B0-100-13
Site Plan - Part 4
for site entrance detail

Received
18/01/2021
BCC DS



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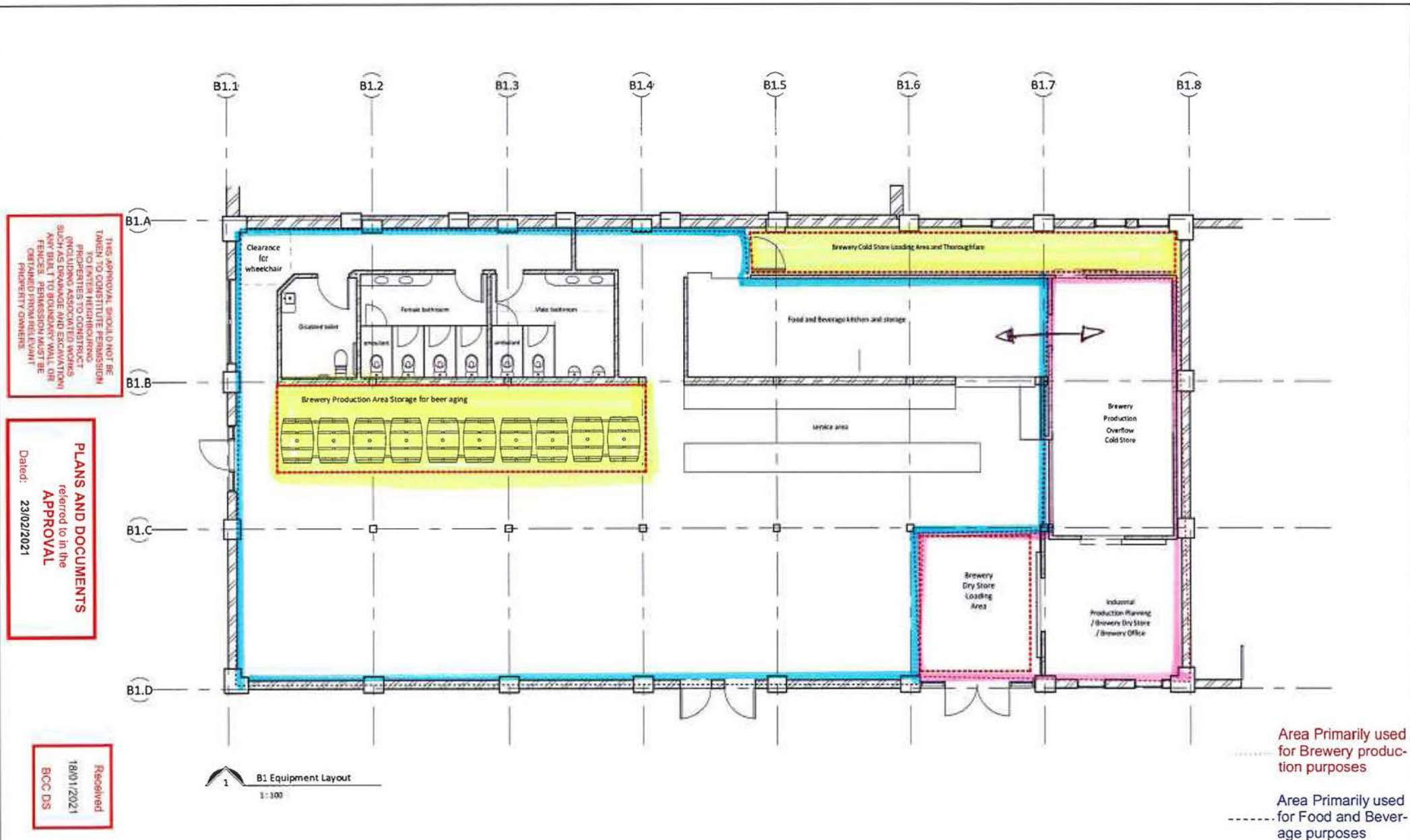
Project: Revel Brewing Co 2.0
Address: 82 Colmslie Rd, Morningside, QLD



DISCLAIMER:

- All drawings are to be read in conjunction with associated engineers drawings where applicable. All equipment, applications and furniture items shown are close to accurate representations and exact dimensions and clearance requirements should be checked with supplier prior to installation.
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Site Plan		Sheet No: A11		
Date: 03-Nov-20 9:51:34 AM	REVISION	AMENDMENT	DATE	
	Rev.		-	
Scale: 1 : 250	@ A3			



Project: Revel Brewing Co 2.0
Address: 82 Colmslie Rd, Morningside, QLD

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B1 Floor Plan		Sheet No: A26		
Date: 28-Oct-20 11:06:23 AM	REVISION	AMENDMENT	DATE	
Scale: 1 : 100	@ A3			







Carly Alder

From: Damien WALKER
Sent: Saturday, 20 March 2021 9:17 AM
To: [Refused under section 47(3)(b) of the RTI Act] Dave Stewart
Cc: [Refused under section 47(3)(b) of the RTI Act] @accbeef.net.au
Subject: Re: VISIT: Australian Country Choice | Dave Stewart, Damien Walker, [Refused under section 47(3)(b) of the RTI Act] & [Refused under section 47(3)(b) of the RTI Act]

Thanks for your email [Refused under section 47(3)(b) of the RTI Act]

It was a valuable visit.

Damien

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From: [Refused under section 47(3)(b) of the RTI Act]
Sent: Friday, March 19, 2021 4:25:42 PM
To: Dave Stewart <david.stewart@premiers.qld.gov.au>
Cc: Damien WALKER <Damien.Walker@dtdi.qld.gov.au>; [Refused under section 47(3)(b) of the RTI Act] @accbeef.net.au; [Refused under section 47(3)(b) of the RTI Act] @accbeef.net.au; [Refused under section 47(3)(b) of the RTI Act] @accbeef.net.au
Subject: Re: VISIT: Australian Country Choice | Dave Stewart, Damien Walker, [Refused under section 47(3)(b) of the RTI Act] & [Refused under section 47(3)(b) of the RTI Act] [Refused under section 47(3)(b) of the RTI Act]

Dear Dave and Damien,

On behalf of all of us at Australian Country Choice, we wanted to thank you for meeting with us on Wednesday afternoon.

We appreciated you taking the time to understand the huge problem ACC has with the BMI development.

We actually visited the site yesterday which was incredibly disturbing.

The gym has a lift going to the top floor which they are supposedly intending to use as an outdoor running track .

The gym is not just a gym , it is also a day spa and health centre. They have gone ahead and built many things their approval was knocked back on. There are laser machines , 2 flotation tank rooms, physiotherapy rooms, a rehabilitation centre, facial rooms ,

a full restaurant kitchen setup and independent offices. It is way more than a gym .

The Brewery set up is even more concerning. The intent is obviously to have numerous restaurants and incredibly large outdoor entertainment areas supposedly with live music.

We did the inspection with [Refused under section 47(3)(b) of the RTI Act] and the lawyers for us and QBT , and, they were all shocked at how BMI have developed the site with no regard to the correct legal zoning.

If you can keep working at offering ACC assistance as soon as possible it would be greatly appreciated.

Enjoy your weekend.

Sincerely,

[Refused under section 47(3)(b) of the RTI Act]

Sent from my iPhone

> On 23 Feb 2021, at 4:32 pm, Dave Stewart <david.stewart@premiers.qld.gov.au> wrote:easy

>

> Attendees:

> Dave Stewart, Director-General - Department of the Premier and Cabinet

> Damien Walker, Director-General - Department of State Development, Infrastructure, Local Government and Planning

> [Refused under section 47(3)(b) of the RTI Act] of Australian Country Choice and The Lee Group of Companies

> [Refused under section 47(3)(b) of the RTI Act] of Australian Country Choice and The Lee Group of Companies

> [Refused under section 47(3)(b) of the RTI Act] of Australian Country Choice

>
> Contacts:
> DPC: Alice Hannay, EA to Dave Stewart [Refused under sec
alice.hannay@premiers.qld.gov.au<mailto:alice.hannay@premiers.qld.gov.au>
> ACC: [Refused under section 47(3)(b) of the RTI Act
>
> Entry details:
> Upon arrival, drive up to the Main Gate House, where as part of the COVID-19 measures in place, each person's temperature will be taken without exiting the vehicle/vehicles. Directions for parking will then be given by the Gate House as to where to park. Upon parking, Mr Stewart and Mr Walker will be met by a member of the ACC team and escorted up to one of the boardrooms for the meeting.
>
>
> This email is intended only for the addressee. Its use is limited to that intended by the author at the time and it is not to be distributed without the author's consent. Unless otherwise stated, the State of Queensland accepts no liability for the contents of this email except where subsequently confirmed in writing. The opinions expressed in this email are those of the author and do not necessarily represent the views of the State of Queensland. This email is confidential and may be subject to a claim of legal privilege. If you have received this email in error, please notify the author and delete this message immediately
> <meeting.ics>

Carly Alder

From: Damien WALKER
Sent: Thursday, 8 April 2021 6:28 PM
To: [Refused under section 47(3)(b) of the RTI Act]
Subject: Re: Rivermakers - Recent Application

Noted with thanks [Refuse]

Damien

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From: [Refused under section 47(3)(b) of the RTI Act] <[redacted]@accbeef.net.au>
Sent: Thursday, April 8, 2021 6:25:44 PM
To: Damien WALKER <Damien.Walker@dsdilgp.qld.gov.au>
Subject: FW: Rivermakers - Recent Application

Hi Damien- further to our phone call of last week and the eligible protections from the Section 94 Gazetted notice, our planners have advised of the below lodged activity which requires BCC to provide to your Minister by 9th April. This will no doubt be a good road test.
Regards

[Refused under section 47(3)(b) of the RTI Act]

Australian Country Choice Group of Companies

[Refused under section 47(3)(b) of the RTI Act]

117 Colmslie Road, Murarrie | PO Box 478, Morningside
Queensland 4170, Australia

From: [Refused under section 47(3)(b) of the RTI Act] <[redacted]@preelplanning.com>
Sent: Wednesday, 7 April 2021 8:42 AM
To: [Refused under section 47(3)(b) of the RTI Act] <[redacted]@accbeef.net.au>
Subject: Rivermakers - Recent Application

Hi [Refused under section 47(3)(b) of the RTI Act]

Details of the most recent development application lodged over Rivermakers:

- Application Number - A005693706
- Date Lodged – 25 March 2021
- Approval Sought – Development Permit for a Material Change of Use for Warehouse
- Lodged Over – 70 Colmslie Road, Morningside (part of Lot 18 on SP309259 – approved Lot 22)
- Applicant – BMI Group C/- HPC Planning
- Properly Made – 31 March 2021.

Based on the gazette notice I believe Council has until this Friday 9 April to provide a copy to the Minister based on the properly made date of 31 March: *Each application must be given to me within 5 business days after the day the application is received by the council or, where applicable, the day the application is properly made, whichever is the later.*

The only other application lodged since 25 January was a Minor Change, which I understand are not a relevant application to be provided to the Minister.

Regards,

Refused under section 47(3)(b) of the RTI Act

Carly Alder

From: Damien WALKER
Sent: Sunday, 25 April 2021 4:35 PM
To: Charmian Brayton
Subject: FW: ACC Growth Plans- discussion

From: [Refused under section 47(3)(b)] <[Refused under section 47(3)(b)]@accbeef.net.au>
Sent: Saturday, 24 April 2021 8:42 PM
To: Damien WALKER <Damien.Walker@dsdilgp.qld.gov.au>
Subject: ACC Growth Plans- discussion

Hi Damien

I am reaching out to discuss our growth plans in particular a major supply chain development proposal that I've been working on and that the state could be interested in. I believe [Refused under section 47(3)(b)] has mentioned it to you. If willing and understanding you are busy, it would be good to arrange a quick phone call with you to get your thoughts on the project and advice on who in government I can further discussions with.

Have a good weekend

Thanks

[Refused under section 47(3)(b)]

Australian Country Choice

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Carly Alder

From: [Refused under section 47(3)]<[redacted]@accbeef.net.au>
Sent: Thursday, 13 May 2021 6:50 PM
To: Damien WALKER
Cc: [Refused under section 47(3)]
Subject: 82 – 90 Colmslie road RETROSDPECTIVE approval required for new work done

Damien-

To add further and continuing insult to State & ACC Injury – the developer of the 82 – 90 Colmslie road site has now lodged with Council a DA seeking **new AND retrospective** works undertaken on a heritage listed infrastructure and site as part of the master plan to become the centre of a new food and beverage hub open to public.

The below words for the heritage consultant says it all –

We've already done the work BUT

We now need approval

It should be granted because " the works COMPLETED are respectful and the new work sympathetic"

"Adaptive – reuse" – doesn't engender thoughts of Historical protection

8. CONCLUSION

The proposed works are part of an overall master plan strategy for the site which will allow a significant, but private site, become the centre of a vibrant food and beverage hub open to the public. Dunhill Properties Pty Ltd purchased the site after it had been vacant for many years, and the buildings were derelict. Roofs, windows and parts of walls were missing and open to the elements. The timber migrant huts were exhibiting major timber decay and had become unsafe.

Over two years and numerous applications to the Department of Environment and Science, the later, intrusive accretions and redundant services have been removed. A new site wide services strategy for stormwater, power, gas and sewerage has been installed to service the site. Extant original timber windows have been conserved, open doorways infilled or secured with contemporary glazed elements. Roofs have been replaced with more proposed under this current application.

The works completed are respectful of the original fabric and the new work has been sympathetic and contemporary in design so as to not blur the cultural heritage significance of the place.

These works should be supported as they represent the next stage towards the adaptive re-use of the place which will ultimately be open to the public for the first time in its history and it is being conserved to tell the story into the future.

Refused under section 47(3)(b) of the RTI

Refused under section 47(3)(b) of the RTI Act

Surely this activity profile needs to be stopped

Refused under section 47

Australian Country Choice Group of Companies

Refused under section 47(3)(b) of the RTI Act

117 Colmslie Road, Murarrie | PO Box 478, Morningside
Queensland 4170, Australia

Carly Alder

From: Damien WALKER
Sent: Thursday, 27 May 2021 1:18 PM
To: [Refused under section 476(1)(b)]
Subject: Re: RSEA Application Lodged for Impact Assessment Shop

Noted with thanks

Damien

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From: [Refused under section 476(1)(b)] <accbeef.net.au>
Sent: Thursday, May 27, 2021 10:39:36 AM
To: Damien WALKER <Damien.Walker@dsdilgp.qld.gov.au>
Subject: FW: RSEA Application Lodged for Impact Assessment Shop

Hi Damian , you probably are aware of this , however I thought I would send it to u just in case

Thanks

[Refused under section 476(1)(b)]

RSEA have lodged a development application for a 900sqm+ shop in The Depot yesterday.

It is impact assessable so will be subject to formal public notification which will give ACC appeal rights if you are to lodge a submission.

It is in response to the enforcement action issued by BCC.

Regards,

[Refused under section 476(1)(b)]

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From: Brisbane Development.i <DoNotReply@devi.brisbane.qld.gov.au>
Sent: Thursday, May 27, 2021 7:30 am
To: [Refused under section 476(1)(b)]
Subject: Development.i Daily Alert Application A005742713 has been updated



Brisbane City Council

Hi [Refused under section 476(1)(b)]

Development application information is available in Development.i based on your saved search and notification frequency criteria.

A new application can take up to three business days to appear in Development.i after being received by Council. During this time Council will confirm that the application has been properly made in accordance with the Planning Act 2016 (Planning Act). As a result, the list below may contain applications with different submitted dates.

For further information on the specific application please click the 'view' link below.

Application Number: A005742713

Date Submitted: 26/05/2021

Description: 500 LYTTON RD MORNINGSIDE QLD 4170 - Material Change of Use - Dunhill Properties Pty Ltd (Primary Applicant), RSEA Safety Pty Ltd (Primary Applicant), Place Design Group Pty Ltd (Consultant)

 [View in Development.i](#)

Manage your email notifications using the [My Profile](#) section of Development.i.

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developmenti.brisbane.qld.gov.au

DEVELOPMENT 

Carly Alder

From: Damien WALKER
Sent: Monday, 14 June 2021 3:35 PM
To: [Refused under section 43(1)]
Subject: RE: ACC Dinner Event

Hi there [Refused under section 43(1)]

Thank you for the invitation to Damien Walker to attend ACC's 2021 Gala Event. Unfortunately, Damien has a prior commitment and can't attend. I would like to take this opportunity to wish ACC every success for the event – sounds like it will be a great night.

Please extend Damien's apologies to [Refused under section 43(1)]

Thanks [Refused under section 43(1)]

Regards
Charmian



Charmian Brayton
Office of the Director-General
Department of State Development, Infrastructure,
Local Government and Planning

P 3452 6965
E charmian.brayton@dsdilgp.qld.gov.au
Level 39, 1 William Street, Brisbane QLD 4000
PO Box 15009, City East QLD 4002
statedevelopment.qld.gov.au



*I acknowledge the traditional custodians of the lands and waters of Queensland.
I offer my respect to elders past, present and emerging as we work towards a just,
equitable and recovered Australia.*



From: [Refused under section 43(1)] <accbeef.net.au>
Sent: Friday, 4 June 2021 3:58 PM
To: Damien WALKER <Damien.Walker@dsdilgp.qld.gov.au>
Subject: ACC Dinner Event

Dear Mr & Mrs Walker

Please find attached your invitation from [Refused under s] and the upcoming ACC event.

Kind Regards

Refused under section 47(3)(b) of the RTI Act

Australian Country Choice

Refused under section 47(3)(b) of the RTI Act
accbeef.net.au

Refused under section 47(3)(b) of the RTI Act

117 Colmslie Road, Murarrie | PO Box 478, Morningside
Queensland 4170, Australia



Refused under section 47(3)(b) of the RTI Act

and
Australian Country Choice
2021 Gala Event

It is with pleasure Refused under section 47(3)(b) of the RTI Act invite you and your partner to the
Australian Country Choice Gala Event

on

Thursday the 15th of July

Cocktails & Canapes Reception

5.15pm for 5.30pm

at

The Sky Room & Terrace

Sky Level

Brisbane Convention & Exhibition Centre

followed by

Queensland Business Leaders Hall of Fame Induction Dinner

6.30pm to 10.30pm

at

The Plaza Ballroom

Brisbane Convention and Exhibition Centre

Grey Street, South Brisbane

Dress Code : Black Tie

Please RSVP by the 14th of June to Refused pacbeef.net.au

Carly Alder

From: Damien WALKER
Sent: Tuesday, 22 June 2021 5:16 PM
To: [Refused under section 36(2)(b)]
Subject: Re: Rivermakers HQ - Hans Site issued with Show Cause - Need to Get Message to the Minister as Decision Maker

Noted with thanks [Refused under section 36(2)(b)]

Damien

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From: [Refused under section 36(2)(b)] <[redacted]@accbeef.net.au>
Sent: Tuesday, June 22, 2021 10:03:11 AM
To: Damien WALKER <Damien.Walker@dasilgp.qld.gov.au>
Subject: FW: Rivermakers HQ - Hans Site issued with Show Cause - Need to Get Message to the Minister as Decision Maker

Hi Damian .

I see that [Refused under section 36(2)(b)] sent the attached letter to Kerry Doss yesterday , I thought it might be of interest to you as well as it is really staggering that BMI can continually get through all the loop holes in the planning and environment laws like he is .

To me it is another reminder why the TLPI is so important to plug some of these holes that BMI are aware of and using so blatantly to their advantage and others disadvantage , hopefully the minister is aware of this abuse and will move to stop it.

Thanks

[Refused under section 36(2)(b)]

Carly Alder

From: Damien WALKER
Sent: Thursday, 24 June 2021 2:59 PM
To: [Refused under section 36(2)(b)]
Subject: Re: Another eatery planning to open on Colmslie Rd

Noted [Refused under section 36(2)(b)]

Damien

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From: [Refused under section 36(2)(b)] <[Refused under section 36(2)(b)]@accbeef.net.au>
Sent: Thursday, June 24, 2021 2:25:43 PM
To: Damien WALKER <Damien.Walker@dsdilgp.qld.gov.au>
Subject: FW: Another eatery planning to open on Colmslie Rd

Hi Damian .

By way of update on Low N slow

[Refused under section 36(2)(b)]

"A sit-down eatery is in the works to help make Low n Slow even more of a destination, but until then a food truck will be in attendance Thursdays to Sundays."...

<https://www.broadsheet.com.au/brisbane/food-and-drink/article/now-open-enormous-specialty-barbeque-butcher-shop-undiscovered-morningside-precinct>