

Friday, February 07, 2014

The Director  
Species Information and Policy Section  
Department of the Environment  
GPO Box 787  
CANBERRA  
ACT 2601

Dear Mr Wright,

**Draft EPBC Act referral guidelines for the vulnerable koala (combined populations of Queensland, New South Wales and the Australian Capital Territory)**

The Property Council of Australia welcomes the opportunity to provide input on the Draft Environment Protection and Biodiversity Conservation Act referral guidelines for the vulnerable koala (combined populations of Queensland, New South Wales and the Australian Capital Territory).

The Property Council represents the \$670 billion property investment industry in Australia. Our 2,000 member firms and 55,000 active industry professionals span the entire spectrum of the property and construction industry.

Our members operate across all property asset classes—including office, shopping centres, residential development, industrial, tourism, leisure, aged care, retirement and infrastructure.

The koala referral process has significant implications for the property industry and the residential development sector in particular.

The Property Council supports the protection of the koala and appropriate protection of koala habitat but does not believe it necessitates unnecessary duplication and costs from the introduction of new Commonwealth guidelines in Queensland.

To avoid this, the Property Council supports the simplification and streamlining of the proposed referral process to bring it in-line with the existing koala protections in Queensland.

This complements the current Federal Government policy being pursued through the EPBC bilateral process.

This is justified because:

- The existing protections for koalas in Queensland form one of the strongest and most comprehensive suites of rules ever applied to koala species in Australia (Appendix A).
- Only 0.09 per cent of urban zoned land within the mapped area of the Commonwealth referral guidelines provides potential koala habitat (Appendix B, C).
- In the absence of clear guidelines with a scientific basis the majority of applications being referred to the Federal Government are done as 'insurance applications' (i.e. applications are made with no new evidence of any koala habitat and are lodged in order to mitigate project risk rather than respond to genuine environmental concern).

### ***Recommendations***

#### **1. Grant EPBC referral exemptions for land within existing urban zone and current approvals**

An overlay of koala habitat with the existing urban zone in Queensland shows that just 0.09 per cent of urban zoned land within the mapped area of the Commonwealth referral guidelines provides potential koala habitat.

This amounts to approximately 338 square kilometres of potential urban koala habitat (Appendix A, B).

The majority of this area is located within the controls of the South East Queensland Koala Conservation State Planning Regulatory Provisions.

The remaining areas outside of South East Queensland are typically in strategic locations such as the Gladstone State Development Area, where other controls apply.

Despite this the majority of applications from the sector have been insurance applications against Controlled Actions.

Insurance applications bog down the system, delay projects and add cost without delivering improved environmental outcomes.

The vast majority of these are from projects within the existing urban zone.

Ideally, the property industry would like the koala listing altered such that the matters of national environmental significance trigger applies only to non-urban zoned areas in Queensland.

This should be recognised within either the EPBC Act, the Regulation or in the koala listing.

Furthermore, the Property Council opposes retrospectivity applying the new Commonwealth guidelines which puts projects at risk of non-compliance.

## **2. Introduce an assessment and approval bilateral that will allow final determinations to be made in Queensland**

The existing State-based provisions are broadly accepted by conservationists and the property industry and form one of the strongest suites of koala conservation rules ever applied.

Protections under the Queensland system include:

- In critical locations the rules result in the prohibition of further development applications and the clearing of trees.
- In other locations proponents are required to undertake extensive studies and demonstrate how their proposal avoids conflict with koala communities and habitat.

The Draft Referral Guidelines largely ignore the existing State protections and will result in further compliance cost and duplication for the property industry.

Provided that there is a sufficiently wide definition of urban areas, the Property Council supports the adoption of an assessment and approval bilateral which allows final determinations to be made in Queensland.

Such an agreement should seek to streamline the process through recognition or accreditation of the existing State regime.

## **3. Recognise the existing Queensland Koala offsets program**

Following an overhaul of koala legislation commencing in 2010 the Queensland Government introduced a koala offsets policy. Under the policy koala offsets are set at a ratio of 5 to 1.

Alarming, the draft Commonwealth referral guidelines will jeopardise koala offsets paid for many existing projects by providing for retrospectivity.

Despite having already been through an extensive process incorporating large financial or direct planning offsets specific to koala habitat, existing projects under the guidelines will be considered no differently to a new project proposing no koala offset.

Projects must be deemed a Controlled Action in order for the existing offsets to be considered and reapplied through the Commonwealth environmental offset system.

There are significant costs and time delays for a project once deemed a Controlled Action.

The Property Council supports overriding provisions that do not preclude existing offsets set by the State based koala protections when undertaking assessments under the new Commonwealth guidelines.

#### **4. Reach consensus on the scientific basis for koala habitat assessments**

The Commonwealth referral guidelines for koalas will introduce further duplication and red tape unnecessarily in an already heavily regulated system.

For instance, there is no evidence base to explain the shift between the South East Queensland Koala Conservation State Planning Regulatory Provisions which provide for a distance of two kilometers as an indicator of a site's connectivity value and the draft Commonwealth guidelines which require five kilometers.

To provide certainty and clarity for proponents, the Property Council urges the Queensland and Commonwealth Governments to reach consensus on a single set of scientific criteria for assessment under both systems, should a streamline approach not be achieved. This is absent from the current proposed guidelines.

We thank you for the opportunity to provide comment on the Draft EPBC Act referral guidelines for the vulnerable koala (combined populations of Queensland, New South Wales and the Australian Capital Territory).

If you have any questions regarding the Property Council or this submission, please do not hesitate to contact me on 02 9033 1900 or [ckakas@propertyoz.com.au](mailto:ckakas@propertyoz.com.au).

Yours sincerely,



**Caryn Kakas**  
Head External and Government Affairs  
Property Council of Australia

**Attached:** Appendices A, B, C

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## Appendices A, B, C

The Property Council commissioned RPS Group to undertake a mapping and policy analysis exercise. The outputs from this are provided in the appendices to this report.

1. A comparative analysis of the existing State-based protections for Koala habitat and the draft Commonwealth guidelines (Appendix A).
2. An overlay of Koala habitat in Queensland and the existing urban zone (Appendix B, C).

As the Department of Environment (Department) mapping is not available in a readily usable format, RPS has used alternative data sources to establish an approximate map mirroring the areas indicated by the Department.

Regional ecosystem vegetation mapping prepared by the Queensland Herbarium has been utilised to demonstrate potential koala habitat.

Approximate urban areas were then established through reviewing the Queensland Government's State-wide Planning Schemes dataset and utilising the following zone categories:

Non-Urban	Urban
Environment Conservation and Management	Business or Centre
Extractive Industry	Community Purposes
Limited Development and Constrained Land	Emerging Communities
Public Recreation and Open Space	Industry
Road	Innovation
Rural and Rural Activity	Mixed Use
Rural Residential	Residential
Special Use Zone	Township
Unknown or Unzoned	
Road Reserve/Watercourse	

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## Appendix A

### Koala Legislation Comparison

Federal	Queensland
<b>Instruments</b>	
EPBCA Draft Koala Referral Guideline	SEQ Koala Conservation SPRP Single SPP Nature Conservation Act <ul style="list-style-type: none"> <li>• NC Wildlife Regulation</li> <li>• NC Koala Conservation Plan</li> </ul>
<b>Area of Effect</b>	
Mapped indicative are showing the range of the koala	SPRP applies over SEQ - it provides definitive mapping that establishes when sites/projects are captured
Indicative mapping is recommended to support site by site assessment	SPP applies over all of Qld - it picks up koala habitat in a broader way, reliant on other habitat and biodiversity mapping. Under the SPP, you need to determine if a site/project is captured
<p>Self-determined referral on whether approval is required (using the decision tree). It works on the basis that koala habitat exists until the self-assessment process is finalised. Self-assessment in summary steps are:</p> <ul style="list-style-type: none"> <li>• Determine if the site is koala habitat</li> <li>• Desktop and field survey and/or baseline monitoring</li> <li>• Is the habitat critical to the survival</li> <li>• Does the proposal adversely affect habitat</li> <li>• Could the action substantially interfere with koala recovery</li> </ul> <p>Following the self-assessment, can then determine whether to refer the application to the Department of the Environment, and potentially an indication on whether or not the project would be a controlled action. The guidelines do not cover management of impacts on koalas and koala habitats where the proposal becomes a controlled action.</p>	<p><b>SPRP</b></p> <ul style="list-style-type: none"> <li>• Review mapping</li> <li>• If captured identify mapping category</li> <li>• Address SPRP requirements to determine if the site/project is exempt, requires approval or is prohibited</li> <li>• Development types are categorised based on mapped location</li> </ul> <p><b>SPP</b> Interim Development Assessment controls (until such time as new Planning Schemes include biodiversity/koala provisions) are:</p> <ol style="list-style-type: none"> <li>1. development applications identify any potential significant adverse environmental impacts on Matters of State Environmental Significance (MSES), and</li> <li>2. applications/proposals manage the significant adverse environmental impacts on MSES by, in order of priority:           <ol style="list-style-type: none"> <li>a. avoiding significant adverse environmental impacts, and</li> <li>b. mitigating significant adverse environmental impacts where these cannot be avoided, and</li> </ol> </li> </ol>

c. where applicable, offsetting any residual adverse impacts.

**Key Issues**

- Guidelines encourage the assessment of significant impacts, primarily through the assessment of habitat critical to the survival of the koala and actions that interfere substantially with the recovery of the koala.
- Aims to avoid and address habitat loss by making proponents design out impacts wherever possible, in order to satisfy the Guidelines and reach a “referral not required” self determination.
- The assessment steps build up layers of importance / complexity, to the consideration of (a) impacts on the habitat, and (b) impacts on koala recovery.
- Consideration of (a) and (b) are linked but can independently trigger a referral
- Section 8 and Figure 2 of the Guidelines prescribe the upper and lower limits of “adversely affecting habitat” – this already provides an exemption for clearing up to 2 hectares – this exemption should articulated up front
- Need to do extensive work to determine if captured – this implies you need to make value judgements on your impacts
- SPRP has retrospective effect on committed development
- Koalas are a MSES as they are a protected “special least concern animal” species under the NC Act
- SPP will also require value judgements on your effects.

**Similarities**

Lower limit exemptions:

- Clearing of up to and including 2ha

Lower limit exemptions, including:

- Domestic activities
- Clearing < 500m2

Due to the need to self assess, would cover off similar issues to SPP MSES matters

Due to MSES matters would cover off similar issues to EPBC self assess

Coastal recovery objectives very similar to actions in Koala Plan and SPRP

**Differences**

Broader potential area affected, long term and cumulative considerations at a national level

SPRP limited to SEQ, some cumulative consideration by way of the controls built into the policy  
SPP broader control, similar to EPBC extent of areas

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	(ie, based on habitat values), and would consider cumulative effects at State and regional level
Encourages up front impact avoidance and mitigation in order to address effects on koalas (and therefore avoid referral). Does not indicate how this can be achieved	SPRP has prescriptive actions and tasks built into assessment criteria – ie, it is a code SPRP has some latitude on how to respond to issues
Cannot rely on offsets or translocation unless it is a controlled action.	Can use offsets at set ratios
No prohibitions	SPRP includes prohibitions Of urban uses in Priority KADA where zoned non—urban
	SPP does not clearly articulate its desired outcomes or performance target/criteria SPP does not necessarily deal well with long term issues and climate change

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## Appendix B

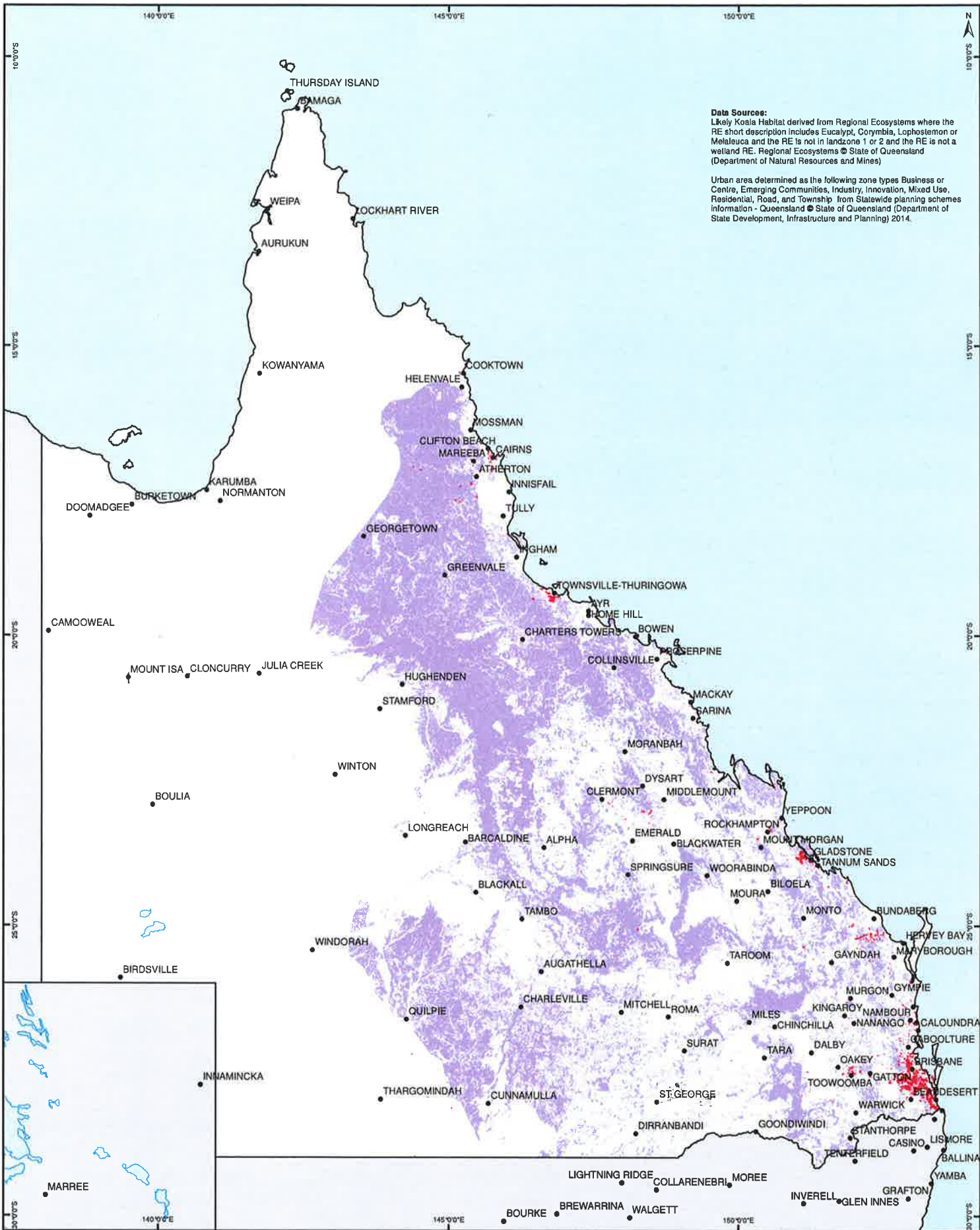
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**Data Sources:**  
 Likely Koala Habitat derived from Regional Ecosystems where the RE short description includes Eucalypt, Corymbia, Lophostemon or Melaleuca and the RE is not in landzone 1 or 2 and the RE is not a wetland RE. Regional Ecosystems © State of Queensland (Department of Natural Resources and Mines)

Urban area determined as the following zone types Business or Centre, Emerging Communities, Industry, Innovation, Mixed Use, Residential, Road, and Township from Statewide planning schemes information - Queensland © State of Queensland (Department of State Development, Infrastructure and Planning) 2014.

Project		-	
Job Ref	PR121374	Date	04 February 2014
Level Datum	AHD	Comp By	TW
Horizontal Datum Projection	DWG Name	Scale	1 : 6,500,000
GDA94	TPxxxxxx-1-001d	Local Authority	

Likely Koala Habitat - QLD	
Client	RPS Australia East
Sheet	A3
<p><small>Disclaimer: While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no guarantee is given that the information portrayed is free from error or omission. Please verify the accuracy of all information prior to use.</small></p>	

**Legend**

- Likely Koala Habitat Inside Urban Area
- Likely Koala Habitat Outside Urban Area
- Unlikely Koala Habitat
- No Data

## Appendix C

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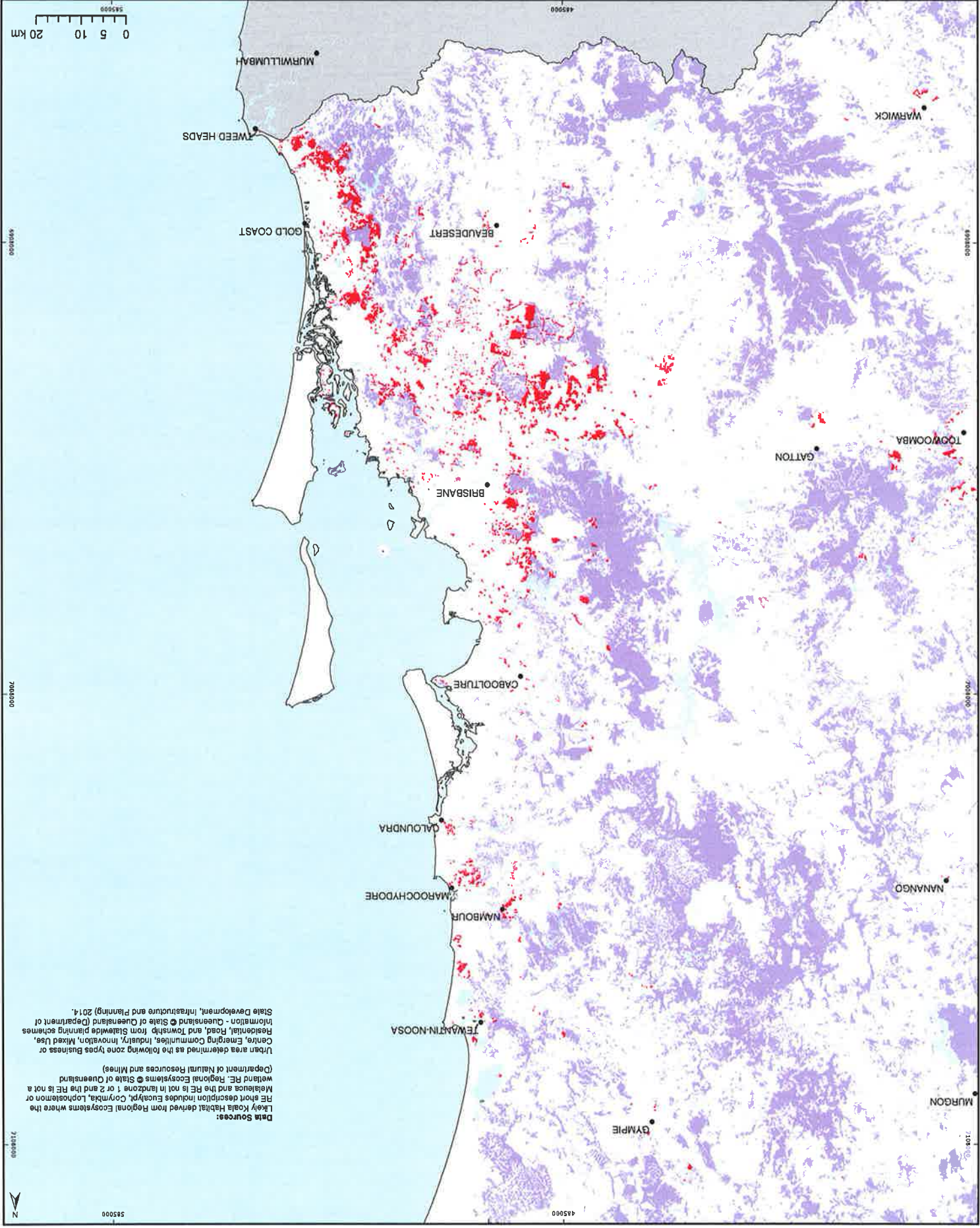


Legend

- Likely Koala Habitat Inside Urban Area
- Likely Koala Habitat Outside Urban Area
- Unlikely Koala Habitat
- No Data

Project		-	
Job Ref	TP100141	Date	03 February 2014
Level Datum	AHD	Comp By	TW
Horizontal Datum	GDA94 / MGA56	DWG Name	TPXXXXXX-1-002b
Local Authority	RPS Australia East		
Client	RPS Australia East		
Sheet	A3		
Scale	1 : 750,000		
Local Authority	Information prior to use. Disclaimer: While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no guarantee is given that the information provided is free from error or omission. Please verify the accuracy of all information prior to use.		

### Likely Koala Habitat - SEQ



**Data Sources:**  
 Likely Koala Habitat derived from Regional Ecosystems where the RE short description includes Eucalypt, Corymba, Lophostemon or Melaleuca and the RE is not in Indzone 1 or 2 and the RE is not a wetland RE. Regional Ecosystems © State of Queensland (Department of Natural Resources and Mines)

Urban area determined as the following zone types Business or Centre, Emerging Communities, Industry, Innovation, Mixed Use, Residential, Road, and Township from Statewide Planning Schemes Information - Queensland © State of Queensland (Department of State Development, Infrastructure and Planning) 2014.