

TOWN PLANNING REPORT

Home-Based Business

236-242 Backwater Road GREENBANK QLD 4124
Lot 35 on RP 101167

April 2023

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PROJECT INFORMATION

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Viva Job Name: 236-242 Backwater Road GREENBANK QLD 4124
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REVISION HISTORY

VERSION	PURPOSE	AUTHOR	REVIEWER	ISSUE DATE
DRAFT	Draft	JK	JS	March 2022
FINAL	DA	JK	JS	April 2022

IMPORTANT NOTE

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EXECUTIVE SUMMARY

SITE DETAILS	
Site Address	236-242 Backwater Road GREENBANK QLD 4124
Real Property Description	Lot 35 on RP 101167
Landowner	Keith Draper
Site Area	21250m ²
Application Details	
Proposal Description	Home-Based Business
Approval Sought	<ul style="list-style-type: none"> ▪ Development Permit for Material Change of Use for Home-Based Business
Level of Assessment	Impact
Public Notification	15 business days
Referrals	None identified
Assessment Framework	
Regional Plan	South East Queensland Regional Plan 2017
Regional Plan Land Use	Regional Landscape and Rural Production Area
Local Government	Logan City Council
Planning Scheme	Logan Planning Scheme 2015 V9.0
Area Classification/Zoning	Rural Residential - Park Living Precinct
Neighbourhood Plan	Not applicable
Overlays	<ul style="list-style-type: none"> ▪ Biodiversity areas overlay ▪ Bushfire hazard overlay ▪ Flood hazard overlay ▪ Landslide hazard and steep slope area overlay ▪ Residential overlay
Applicant Details	
Applicant	Keith Draper c/o- Viva Property Group
Contact Details	James Stott / Jason King T: 07 3831 5577 E: info@vivapropertygroup.com.au
Our Reference	230005

I. INTRODUCTION

Keith Draper (the Applicant) has engaged Viva Property Group to seek development approval over land located at 236-242 Backwater Road GREENBANK QLD 4124, formally described as Lot 35 on RP 101167 for:

- Development Permit for Home-Based Business.

The proposed development is subject to **Impact** assessment.

This development application seeks to formalise the existing use on site which is subject to a Show Cause Notice (62529) issued by Council under s.167 of the *Planning Act 2016* (the Act).

The existing use on site is a Home-based business that involves the mechanical repair of motor vehicles and is considered to generally comply with the requirements of the Home-based business code.

This report addresses the merits of the proposal against the relevant provisions of the *Logan Planning Scheme 2015 V9.0* (the Planning Scheme), the *Planning Act 2016* (the Act) and other relevant legislation. Detailed analysis of the proposal against the local and state planning framework is included within this report and its attachments.

Accompanying this Town Planning Report is the supporting information identified in *Table 1* below.

TABLE 1 SUPPORTING INFORMATION

DOCUMENT	AUTHOR	DATE
Proposal Plans	Viva Property Group	April 2023

Approval is recommended subject to reasonable and relevant conditions.

2. SITE DESCRIPTION

6.1 SITE LOCATION

The subject site is located at 236-242 Backwater Road GREENBANK QLD 4124, and is formally described as Lot 35 on RP 101167.

Figure 1 below provides an overview of the location of the subject site.



FIGURE 1 SITE LOCATION PLAN

6.2 SITE DETAILS

Key details of the subject site are outlined in *Table 2* below and detailed property searches are provided in *Appendix A*. A Cadastral Plan of the subject site is provided in *Figure 2*, and Aerial Photography is provided in *Figure 3*.

TABLE 2 SITE DETAILS

SITE ANALYSIS	
Existing Development	
Built Form	The subject site contains an existing Dwelling house and outbuildings.
Storeys	1
Vehicle Entry Points	Single vehicle crossover to Backwater Road.
Site Characteristics	
Topography	The subject site is gently undulating.
Vegetation	The subject site contains protected vegetation.
Waterways	The subject site does not contain a waterway.
Wetlands	The subject site does not feature wetlands.
Contaminated Land	The subject site is not listed on the EMR or CLR.
Heritage Places	The subject site is not listed on the Local or State Heritage Registers.
Infrastructure and Services	
Road Frontages	Approximately 72m to Backwater Road.
Water Supply	Water supply will be as per existing site conditions.
Sewerage	Sewerage will be dealt with as per existing site conditions.
Stormwater	Stormwater will be able to be directed to a lawful point of discharge as per existing site conditions.
Electricity and Telecommunications	The site has existing electricity and telecommunications connections which will be able to service the proposed development.

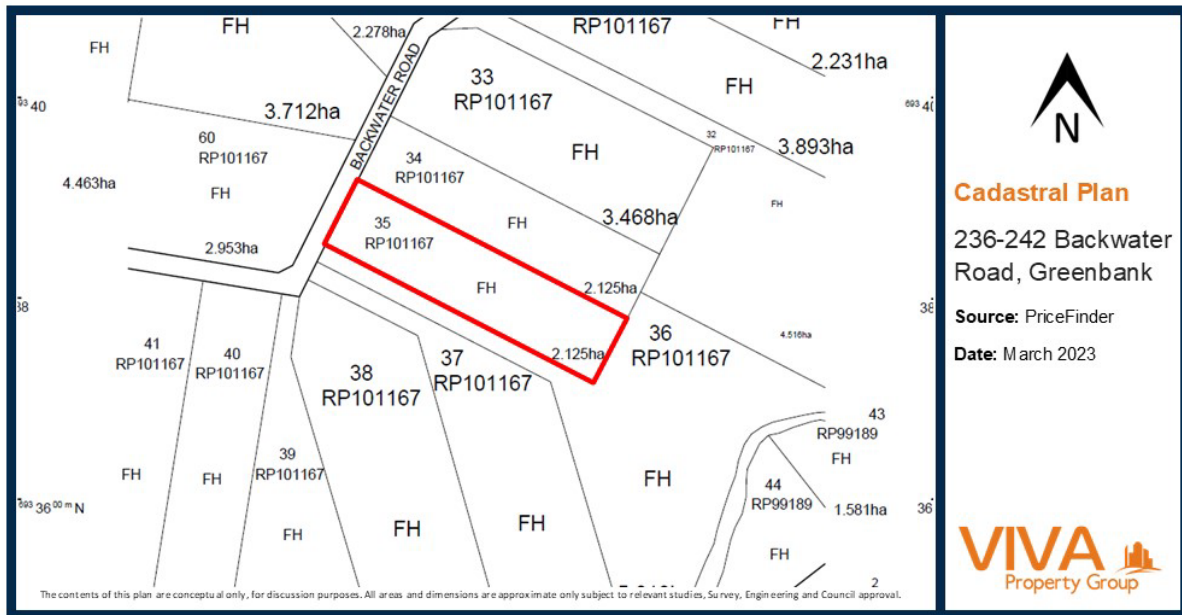


FIGURE 2 CADASTRAL PLAN



FIGURE 3 AERIAL PHOTOGRAPH

6.3 SURROUNDING LAND USES

Development surrounding the subject site primarily consists of rural residential development.

6.4 OWNER'S CONSENT

The subject site is owned in Fee Simple by Keith Draper. A Certificate of Title is provided within *Appendix A*. In accordance with s.51 of the Act, owner's consent is not required for this application.

3. BACKGROUND

6.5 PREVIOUS APPROVALS

There are no previous approvals in relation to this application.

6.6 PRELODGEEMENT MEETINGS

No prelodgement meetings have been held in relation to this application.

6.7 SHOW CAUSE NOTICE

This development application seeks to formalise the existing Transport depot use on site which is subject to a Show Cause Notice (62529) issued by Council under s.167 of the *Planning Act 2016* (the Act).

4. PROPOSAL DESCRIPTION

6.8 GENERAL DESCRIPTION

The development seeks the formalisation of the existing Home-based business use on site. The existing use will generally comply, or can be conditioned to comply, with all relevant assessment benchmarks. A full assessment is provided within *Appendix C* and *Section 6* of this Report.

The proposed development is depicted in *Figure 4* below.



FIGURE 4 PROPOSED DEVELOPMENT

The general development statistics are set out below in *Table 3*. Detailed proposal plans are provided in *Appendix B*.

TABLE 3 PROPOSAL OUTLINE

Development Statistics	
Home-Based Business	
Proposed Use	Home-based business
Site Cover	As per existing site conditions.
Number of Storeys	One
Front Setback	As per existing site conditions.
Rear Setback	As per existing site conditions.
Side Setbacks	As per existing site conditions.
Landscaping	Not assessable.
Car Parking	Compliant with the requirements of the <i>Home-based business code</i> .

Development Statistics	
Bicycle Parking	Not applicable
Vehicle Entry Points	Crossover to the Backwater Road
Service Vehicle	Not applicable
Refuse Storage and Collection	Refuse will be stored in bins within a suitable area on site and will be collected as per existing site arrangements.

6.9 ENGINEERING AND SERVICES

4.1.1 BULK EARTHWORKS

The development seeks the formalisation of the existing Home-based business use on site. Bulk earthworks are not proposed.

4.1.2 SEWER

Sewerage will be dealt with as per existing site conditions.

4.1.3 WATER

Water supply will be as per existing site conditions.

4.1.4 ELECTRICITY

The subject site has an existing electricity connection which will be able to service the proposed development.

4.1.5 TELECOMMUNICATIONS

The subject site has existing telecommunications connections which will be able to service the proposed development.

4.1.6 STORMWATER

Stormwater will be discharged to a lawful point of discharge as per existing site conditions.

6.10 TRANSPORT, ACCESS, PARKING AND SERVICING

4.1.7 ACCESS

Access will be as per existing site conditions.

6.11 STAGING

The proposed development will be undertaken over a single stage.

5. STATUTORY REQUIREMENTS AND ASSESSMENT

This section provides an overview of the legislative context of the application under the provisions of the *Planning Act 2016*.

6.12 STATUTORY PROVISIONS

Table 4 below provides an overview of the State and local statutory provisions relevant to this proposal.

TABLE 4 SUMMARY OF STATUTORY PROVISIONS

SUMMARY OF STATUTORY PROVISIONS	
Type of Approval	<ul style="list-style-type: none"> Development Permit for Material Change of Use for Home-Based Business
Defined Use	Home-based business
Level of Assessment	Impact
Public Notification	15 business days
Referrals	None identified
Relevant sections of State Planning Policy	<ul style="list-style-type: none"> Environment and heritage Safety and resilience to hazards

6.13 STATE PLANNING REQUIREMENTS AND ASSESSMENT

A review of the current State planning regulatory requirements has been undertaken. It is considered that the proposed development is generally compliant with all requirements. No conflicts have been identified.

5.1.1 REGIONAL PLAN

The subject site is located within the mapped extent of the South East Queensland Regional Plan 2017.

As prescribed in Section 26 of the Regulation, the assessment of the proposed development must be carried out against certain assessment benchmarks.

It is noted that the subject site is mapped within the Regional Landscape and Rural Production Area (RLRPA) under the SEQ Regional Plan. In accordance with Schedule 10 of the Regulation, it is considered that the proposed development is an exempt material change of use.

Specifically, the proposal is considered to meet the definition of a Home-based business which is defined in the Regulation as the use of a dwelling or domestic outbuilding on premises for a business activity that is subordinate to the residential use of the premises.

As the proposal is subordinate to the residential use on the premises, the proposal is considered to be residential development (dwelling house and domestic outbuildings) and is therefore an excluded material change of use.

No further assessment is required.

5.1.2 STATE PLANNING POLICY

The State Planning Policy was released on 3 July 2017. Under Section 26 of the Planning Regulation, the State Planning Policy is an assessment benchmark that the Assessment Manager must have regard to if not appropriately integrated into the Planning Scheme.

It is noted that the State Planning Policy has been appropriately integrated into the Planning Scheme and, therefore, no further assessment against the SPP is required. This is demonstrated in *Table 5* below.

TABLE 5 ASSESSMENT OF STATE PLANNING POLICY

STATE PLANNING POLICY TRIGGER ASSESSMENT		
State Planning Policy Section	Represented in Planning Scheme	Relevant
Liveable communities and housing	Yes	No
Economic growth	Yes	No
Environment and heritage	Yes	Yes
Safety and resilience to hazards	Yes	Yes
Infrastructure	Yes	No

5.1.3 KOALA HABITAT

The premises on which the development is to be carried out is mapped as including an area that is both:

- A koala priority area; and
- A koala habitat area.

The proposed development does not involve interfering with koala habitat in a koala habitat area and, therefore, must be assessed against the assessment benchmarks in Schedule 11, Part 2 of the Planning Regulation 2017 (the Regulation).

There are no referral requirements identified for the proposed development.

An assessment of the proposal against the relevant assessment benchmarks is provided within *Section 6*.

5.1.4 REFERRALS AND STATE DEVELOPMENT ASSESSMENT PROVISIONS

Referral matters for this proposal have been assessed against the Regulation.

No referrals have been identified as being applicable to this application.

It is noted that the subject site contains Core Koala Habitat and is within the Koala Priority Area; however, and as noted in Section 5.2.3, referral is not required.

It is also noted that the subject site is mapped as being within the Regional Landscape and Rural Production Area; however, and as noted in Section 5.1.1, referral is not required.

6.14 LOCAL PLANNING REQUIREMENTS AND ASSESSMENT

The *Logan Planning Scheme 2015 V9.0* (Planning Scheme) is applicable to this application. The relevant provisions of the Planning Scheme are identified and addressed below.

5.1.5 DEFINED USE

The proposed development involves a Home-based business. This is defined in the Planning Scheme as follows:

Home-based business means the use of a dwelling or domestic outbuilding on premises for a business activity that is subordinate to the residential use of the premises.

5.1.6 LEVEL OF ASSESSMENT

The proposed development is subject to **Impact** Assessment in accordance with Part 5 of the Planning Scheme as outlined in *Table 6* below.

TABLE 6 LEVEL OF ASSESSMENT

ASSESSMENT TRIGGER	TABLE	LEVEL OF ASSESSMENT
Home-Based Business		
Rural residential zone – Park living precinct	5.5.13.1	Impact
All aspects of development		
Biodiversity areas overlay	5.10.2.1	No Change
Bushfire hazard overlay	5.10.3.1	No Change
Flood hazard overlay	5.10.5.1	Not Applicable (not within mapped flood area)
Landslide hazard and steep slope area overlay	5.10.8.1	Not Applicable (not within mapped landslide hazard area)
Residential overlay	5.10.10.1	Accepted development (subject to requirements)

5.1.7 LOCAL PLAN

The subject site is not mapped within a Local Plan area.

No further assessment is required.

5.1.8 ZONE

Under the Planning Scheme, the subject site is mapped as being within the Rural Residential - Park Living Precinct. The subject site adjoins other Rural residential zoned land. Local zoning around the site is illustrated in *Figure 5* below.

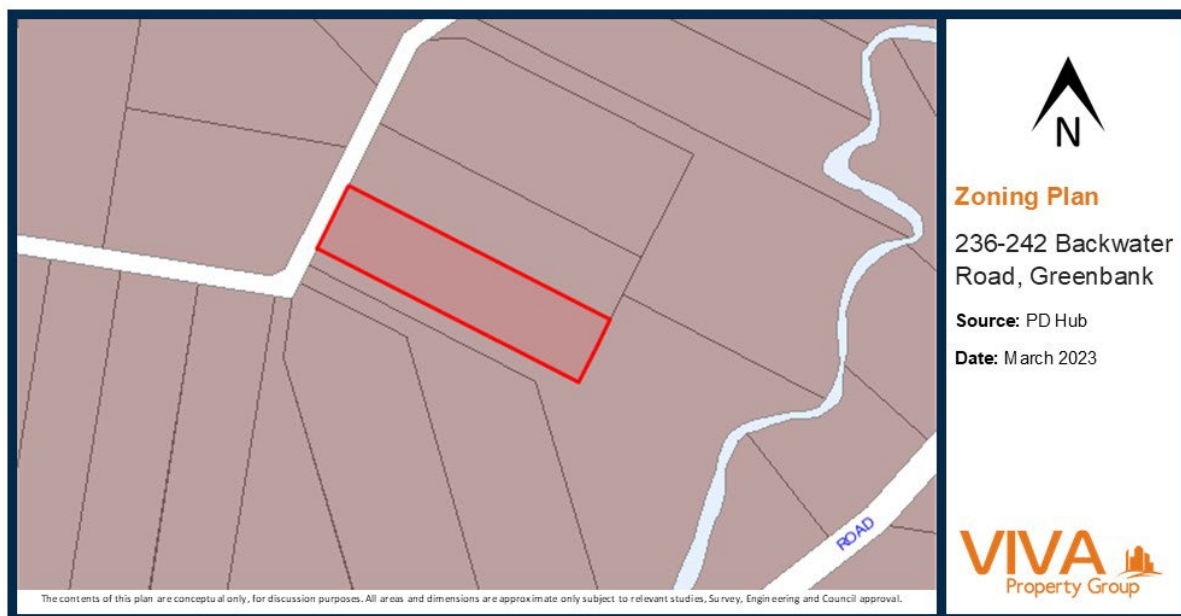


FIGURE 5 ZONING PLAN

In accordance with Table 5.5.13.1, the proposed development is Impact Assessable development within the zone as the Home-based business involves an activity that would otherwise be defined as an Industry activity (Low impact industry).

A full assessment of the proposed development against the *Rural residential zone code* is provided within *Appendix C*.

5.1.9 OVERLAYS

The subject site is mapped as being affected a number of overlays. Overlay maps over the site and their applicability to the proposed development are identified in *Table 7* below and then further discussed following.

TABLE 7 OVERLAY MAPS

OVERLAY	RELEVANT SUB-CATEGORY	APPLICABLE
Biodiversity areas overlay	<ul style="list-style-type: none"> ▪ Primary vegetation management area ▪ Secondary vegetation management area ▪ Matters of local environmental significance ▪ Matters of both state and local environmental significance 	Yes
Bushfire hazard overlay	<ul style="list-style-type: none"> ▪ Bushfire hazard – Medium potential ▪ Bushfire hazard – Potential impact buffer area 	Yes
Flood hazard overlay	<ul style="list-style-type: none"> ▪ Flooding and inundation area 	No
Landslide hazard and steep slope area overlay	<ul style="list-style-type: none"> ▪ Landslide \geq 15% slope 	No

OVERLAY	RELEVANT SUB-CATEGORY	APPLICABLE
Residential overlay	<ul style="list-style-type: none"> Residential overlay 	No

5.1.9.1 BIODIVERSITY AREAS OVERLAY

The subject site is mapped within the Biodiversity areas overlay and triggers assessment against the *Biodiversity areas overlay code*.

The purpose of the *Biodiversity areas overlay code* is to connect biodiversity corridors, protect and enhance habitat values and ecosystem functions, and to protect scenic amenity values.

It is considered that the proposed development generally complies with the requirements of the overlay code. A full assessment against the *Biodiversity areas overlay code* is provided within *Appendix C*.

5.1.9.2 BUSHFIRE HAZARD OVERLAY

The subject site is mapped within the Bushfire hazard overlay and triggers assessment against the *Bushfire hazard overlay code*.

The purpose of the *Bushfire hazard overlay code* is to protect people and premises in a Bushfire hazard area.

It is considered that the proposed development generally complies with the requirements of the overlay code. A full assessment against the *Bushfire hazard overlay code* is provided within *Appendix C*.

5.1.10 OTHER DEVELOPMENT CODES

It is considered that the following other development codes are applicable to the proposed development:

- Servicing, access and parking code.

A full assessment of the proposed development against the *Servicing, access and parking code* is provided within *Appendix C*.

5.1.11 APPLICABLE ASPECTS OF PLANNING SCHEME

Based on the assessment outlined above, the sections and codes of the Planning Scheme that are identified as being applicable to the proposed development are outlined in *Table 8* below.

TABLE 8 APPLICABLE PLANNING SCHEME CODES

APPLICABLE CODE/SECTION	LOCATION OF RESPONSE
Primary Codes	
Rural residential zone code	<i>Appendix C</i>
Home-based business code	<i>Appendix C</i>
Overlay Codes	

APPLICABLE CODE/SECTION	LOCATION OF RESPONSE
Biodiversity areas overlay code	<i>Appendix C</i>
Bushfire hazard overlay code	<i>Appendix C</i>
Secondary Codes	
Servicing, access and parking code	<i>Appendix C</i>

6. PLANNING CONSIDERATIONS

6.1 COMPATIBILITY WITH THE RESIDENTIAL CHARACTER OF THE AREA

It is acknowledged that AO1 of the *Home-based business code* seeks to limit a Home-based business use to certain uses which do not include the mechanical repair of motor vehicles (Low impact industry). However, it is considered that the proposed Home-based business is compatible with the residential character of the area and, therefore, is able to demonstrate compliance with PO1 of the *Home-based business code* and is an appropriate development outcome for the site.

Specifically, it is noted that the Home-based business will not introduce any readily discernible additional impacts as compared to a Dwelling house due to the following factors:

- The Home-based business will be undertaken within existing lawfully constructed buildings on site and, therefore, will not result in any additional building height, overlooking, site cover, or reduced boundary setbacks;
- Generally, there will be no more than 5 customer vehicles on site at any one time which is generally consistent with community expectations for the amount of vehicles to be located on an acreage sized lot;
- The Home-based business will be able to comply with the relevant acoustic planning criteria;
- Additional vehicle movements to and from the premises will be marginal as compared to a typical Dwelling house due to the nature of the motor vehicle repair business which focusses on classic cars with limited parts availability (therefore, customer cars are generally on site for days to weeks at a time); and
- Neighbour's Consents have been obtained which demonstrates that the Home-based business does not result in amenity impacts to nearby properties that are not reasonably expected within the local area (please refer to *Appendix D*).

Given the above assessment, it can be seen that the proposed Home-based business will effectively function with no greater intensity than a Dwelling house and is therefore compatible with the residential character of the area.

6.2 SUBORDINATE TO THE USE OF THE DWELLING HOUSE AND COMPATIBLE WITH THE INTENDED CHARACTER OF THE ZONE AND PRECINCT

It is acknowledged that AO2 of the *Home-based business code* seeks to ensure that a Home-based business does not involve repair or maintenance of motor vehicles. However, it is considered that the proposed Home-based business is subordinate to the use of the Dwelling house and is compatible with the intended character of the zone and precinct and, therefore, is able to demonstrate compliance with PO2 of the *Home-based business code* and is an appropriate development outcome for the site.

Specifically, the following factors are noted:

- The Home-based business is small-scale in comparison to the Dwelling house use on site, comprising only approx. 5%-10% of the GFA across the site (please refer to the Proposal Plans provided as *Appendix B* for further details);

- The Home-based business will be undertaken within existing lawfully constructed buildings on site and, therefore, will not result in any additional building height, overlooking, site cover, or reduced boundary setbacks. As such, it is considered that the Home-based business is compatible with the built form character of the zone and precinct;
- Generally, there will be no more than 5 customer vehicles on site at any one time which is generally consistent with community expectations for the amount of vehicles to be located on an acreage sized lot within the zone and precinct;
- The Home-based business will be able to comply with the relevant acoustic planning criteria;
- Additional vehicle movements to and from the premises will be marginal as compared to a typical Dwelling house due to the nature of the motor vehicle repair business which focusses on classic cars with limited parts availability (therefore, customer cars are generally on site for days to weeks at a time); and
- Neighbour's Consents have been obtained which demonstrates that the Home-based business does not result in amenity impacts to nearby properties that are not reasonably expected within the local area (please refer to *Appendix D*).

Further to the above, it is acknowledged that PO7 of the *Rural residential zone code* seeks to ensure that development protects the intended amenity for the zone and precinct of an adjoining premises by having regard to emissions (including noise, air, light, radiation and vibration). Given that neighbour's consents have been obtained and are provided as *Appendix D*, it is evident that the proposed Home-based business does not have any impact on the intended amenity for the zone and precinct of an adjoining premises and complies with PO7 of the zone code.

6.3 SCALE OF THE BUSINESS

It is acknowledged that this application is in response to a Show Cause Notice (62529) issued by Council under s.167 of the *Planning Act 2016* (the Act).

During Council's investigations of the matter, it would have been apparent that there were many vehicles located on site.

However, Council's attention is drawn to the fact that the majority of the vehicles on site are the applicant's hobby vehicles and/or the applicant's friends' hobby vehicles as the applicant is involved in recreational activities that involve motor vehicles.

Vehicles on site that are related to the Home-based business generally number no more than 5 customer vehicles at any one time and, therefore, are generally consistent with what would be expected on an acreage sized lot.

6.4 KOALA HABITAT

The premises on which the development is to be carried out is mapped as including an area that is both:

- A koala priority area; and
- A koala habitat area.

The proposed development does not involve interfering with koala habitat in a koala habitat area and, therefore, must be assessed against the assessment benchmarks in Schedule 11, Part 2 of the *Planning Regulation 2017* (the Regulation).

The proposed development will be able to provide safe koala movement measures within the koala habitat area on the premises, as required.

However, it is noted that there is only one koala habitat area on the premises and that the proposed development will be undertaken within existing lawfully approved structures and will not further fragment that area. As such, it is not expected that safe koala movement measures will be required.

It is acknowledged that the proposed use will not be setback at least 50m from the koala habitat area and, as such, must comply with each of the criteria stated in subsection (2). It is considered that the proposed development will comply with, or can be conditioned to comply with, each of the criteria stated in subsection (2).

Specifically, it is noted that the proposed development will be able to ensure that:

- Changes to soil conditions as a result of the development do not adversely affect the koala habitat area;
- Alteration of hydrological flows as a result of the development do not adversely affect the koala habitat area;
- Any landscaping associated with the development that involves planting non-native vegetation does not adversely affect the koala habitat area;
- The development will not result in the increased growth or spread of weeds in the koala habitat area; and
- The development will not result in the clearing of any vegetation.

It is expected that reasonable and relevant conditions will be attached to any development approval as deemed necessary by Council.

7. CONCLUSION

This Town Planning Report supports a Development Application made by Keith Draper to Logan City Council for the formalisation of the existing use on site which is subject to a Show Cause Notice (62529) issued by Council under s.167 of the *Planning Act 2016* (the Act).

The site is located at 236-242 Backwater Road GREENBANK QLD 4124, and is formally described as Lot 35 on RP 101167.

The application seeks approval for:

- Development Permit for Material Change of Use for Home-Based Business.

As demonstrated in this Town Planning Report and the supporting technical appendices, the proposed development is generally consistent with the intent of the Planning Scheme and other relevant instruments.

Approval is recommended subject to reasonable and relevant conditions.