

## Tracey Cooke

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**From:** Chris Vize  
**Sent:** Tuesday, 31 January 2017 9:59 AM  
**To:** Cr Wendy Boglary  
**Cc:** Karen Lusk  
**Subject:** RE: draft City Plan

Hi Wendy,

### Revetment wall setbacks

At present, the Redlands Planning Scheme 2006 includes an overlay called the 'Canal and Lakeside Structures Overlay', which triggers a planning application to be lodged for buildings and structures that are proposed within 9 metres of the revetment wall. This application is then assessed against the overlay code, which includes outcomes ensuring that development:

- Does not impact on the structural integrity of the revetment wall;
- Maintains the amenity of adjoining properties by maintaining consistency with building setbacks of adjoining structures and not dominating or detracting from the landscape setting; and

- Does not prevent legal public access to the water's edge (e.g. not to build within an easement that provides legal access).

Importantly, the assessment is against performance outcomes (as the Sustainable Planning Act requires); it cannot mandate a 9 metre setback, it can only provide this as "one way" of achieving the performance outcomes. If, through a planning application, they can demonstrate that the structure will not have an impact on the structural integrity of the wall, will maintain amenity and does not affect legal public access, then it must be approved by Council. Council request engineering certification prior to approving the structures – in order to demonstrate that the development will not impact on the structural integrity of the wall (as required by the specific outcome identified above).

Draft City Plan takes a different approach, based on the relationship between the Sustainable Planning Act (SPA) and the Building Act. Section 78A of the SPA states that a local planning instrument must not include provisions for building work, to the extent that the building work is regulated under the **building assessment provisions**, unless permitted by the Building Act. The primary purpose is to avoid duplication in the assessment process. Structural integrity is a **building assessment provision** outlined in the Building Code of Australia (BCA), and therefore cannot be regulated by the planning scheme. In this regard, the draft City Plan does not regulate the impact of buildings and structures on revetment walls. This is the purpose of the **BCA**, and must be assessed as part of a building application (not a planning application).

However, Section 33 of the Building Act does allow a planning scheme to include provisions for setbacks in relation to amenity. Therefore, the draft City Plan does include a setback of 9 metres to the rear boundary. However, the performance outcome is only about amenity, and not about structural impacts on the revetment wall. Where a dwelling house (or extension to a dwelling house) is proposed within 9 metres of the rear boundary, it will require a planning application to be lodged. It is then assessed against the performance outcome. In order to highlight the significance of revetment walls, the draft City Plan includes a note to emphasise to building certifiers that they (as always) should obtain appropriate engineering certification prior to approving any structures. The note reads:

*Editor's note—Applicants should also be aware that structures near a canal or revetment wall must maintain the structural integrity of the wall, in accordance with the Building Code of Australia. Any construction closer than 9m would need to be supported by the correct building structural design certificates which prove that any works within this distance will not cause any movement or damage to the existing revetment wall or bank which may have a limited capacity to withstand additional loadings. These matters are to be addressed in any application for building works.*

## Regards

Chris Vize  
Principal Advisor Strategic Coordination  
Economic Sustainability & Major Projects Group  
Redland City Council  
Cnr Bloomfield and Middle Streets, Cleveland Qld 4163  
PO Box 21, Cleveland QLD 4163  
(07) 3829 8813

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**From:** Cr Wendy Boglary  
**Sent:** Sunday, 29 January 2017 11:17 PM  
**To:** Chris Vize  
**Cc:** Karen Lusk  
**Subject:** draft City Plan

Hello Chris

Revetment walls are the other one – at Raby Bay residents are building closer to the walls – how has this been made stronger in the draft as originally I am sure it was suppose to be no building within 9m of the revetment walls

Thanks for adding onto existing list,  
Wendy

Warm Regards,

**Cr. Wendy Boglary**

**Deputy Mayor**

Division 1 Councillor (Ormiston/Wellington Point)  
Redland City Council  
Ph: 3829 8619  
[wendy.boglary@redland.qld.gov.au](mailto:wendy.boglary@redland.qld.gov.au)

Local Councillor Updates on Facebook:  
<https://www.facebook.com/councillorwendyboglary/>

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## Tracey Cooke

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**From:** Kerry Warrilow  
**Sent:** Tuesday, 23 January 2018 2:14 PM  
**To:** Kerry Warrilow  
**Subject:** FW: COMPLETED BY C&CS - CITY PLANNING AND ASSESSMENT: REMINDER - Forthcoming Meeting

**Importance:** High

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**From:** Lynda Clarke  
**Sent:** Friday, 27 January 2017 10:34 AM  
**To:** Tina Robinson; Bill Lyon  
**Cc:** Kim Kerwin; Chris Vize  
**Subject:** COMPLETED BY C&CS - CITY PLANNING AND ASSESSMENT: REMINDER - Forthcoming Meeting  
**Importance:** High

Bill – on behalf of Kim Kerwin (Acting GM) – please see below response provided for C&CS two (2) points:

- Page 3 – Nine Metre Exclusion Zone.

### Revetment wall setbacks

At present, the Redlands Planning Scheme 2006 includes an overlay called the 'Canal and Lakeside Structures Overlay', which triggers a planning application to be lodged for buildings and structures that are proposed within 9 metres of the revetment wall. This application is then assessed against the overlay code, which includes outcomes ensuring that development:

- Does not impact on the structural integrity of the revetment wall;

- Maintains the amenity of adjoining properties by maintaining consistency with building setbacks of adjoining structures and not dominating or detracting from the landscape setting; and
- Does not prevent legal public access to the water's edge (e.g. not to build within an easement that provides legal access).

Importantly, the assessment is against performance outcomes (as the Sustainable Planning Act requires), it cannot mandate a 9 metre setback, it can only provide this as "one way" of achieving the performance outcomes. If, through a planning application, they can demonstrate that the structure will not have an impact on the structural integrity of the wall, will maintain amenity and does not affect legal public access, then it must be approved by Council. This is where Council can currently request engineering certification prior to approving the structures – in order to demonstrate that the development will not impact on the structural integrity of the wall (as required by the specific outcome identified above).

Draft City Plan takes a different approach, based on the relationship between the Sustainable Planning Act (SPA) and the Building Act. Section 78A of the SPA states that a local planning instrument must not include provisions for building work, to the extent that the building work is regulated under the **building assessment provisions**, unless permitted by the Building Act. The primary purpose is to avoid duplication in the assessment process. Structural integrity is a **building assessment provision** outlined in the Building Code of Australia (BCA), and therefore cannot be regulated by the planning scheme. In this regard, the draft City Plan does not regulate the impact of buildings and structures on revetment walls. This is the purpose of the **BCA**, and must be assessed as part of a building application (not a planning application).

However, Section 33 of the Building Act does allow a planning scheme to include provisions for setbacks in relation to amenity. Therefore, the draft City Plan does include a setback of 9 metres to the rear boundary. However, the performance outcome is only about amenity, and not about structural impacts on the revetment wall. Where a dwelling house (or extension to a dwelling house) is proposed within 9 metres of the rear boundary, it will require a planning application to be lodged. It is then assessed against the performance outcome. In order to highlight the significance of revetment walls, the draft City Plan includes a note to emphasise to building certifiers that they (as always) should obtain appropriate engineering certification prior to approving any structures. The note reads:  
*Editor's note—Applicants should also be aware that structures near a canal or revetment wall must maintain the structural integrity of the wall, in accordance with the Building Code of Australia. Any construction closer than 9m would need to be supported by the correct building structural design certificates which prove that any works within this distance will not cause any movement or damage to the existing revetment wall or bank which may have a limited capacity to withstand additional loadings. These matters are to be addressed in any application for building works.*

If you require any further clarification, please do not hesitate to contact Kim on ext8503.

If there is anything else I can assist you with, please let me know.

Cheers.  
 Lynda.

Lynda Clarke

Department Co-ordinator |  
 Community and Customer Services | Redland City Council |

Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
PO Box 21, Cleveland QLD 4163 |  
**Phone:** (07) 3829-8557 | **Fax:** (07) 3829-8295 |  
**Email:** [lynda.clarke@redland.qld.gov.au](mailto:lynda.clarke@redland.qld.gov.au) | **Web:** [www.redland.qld.gov.au](http://www.redland.qld.gov.au)



*Please consider the environment before you print this e-mail or any attachments.*

**From:** Tina Robinson

**Sent:** Friday, 27 January 2017 9:32 AM

**To:** Chief Executive Officer; Claire Lovejoy; Deborah Corbett-Hall; Kim Kerwin; Louise Rusan; Peter Best

**Cc:** Amanda Daly; Andrew Ross; Lynda Clarke; Lisa Horan; Dianne Metcalfe; Michelle Richards

**Subject:** REMINDER - Forthcoming Meeting

Good morning

Quick reminder, that the CEO request for responses in relation to the attached is due COB today.

Regards

**Tina Robinson | PA to Chief Executive Officer**

**Office of the CEO | Redland City Council |**

Cnr Middle and Bloomfield Streets, Cleveland QLD 4163

PO Box 21, Cleveland QLD 4163 Australia

T 61 7 3829 8860 | F 61 7 3829 8765

E [tina.robinson@redland.qld.gov.au](mailto:tina.robinson@redland.qld.gov.au)

**From:** Bill Lyon

**Sent:** Tuesday, 24 January 2017 9:47 AM

**To:** Executive Leadership Group

**Cc:** Councillors; Tina Robinson

**Subject:** FW: Forthcoming Meeting

Team,

Could you please provide some written responses to the attached and forward to me by COB 27<sup>th</sup> So I can respond to the issues etc raised.

Given the advice and direction we are seeking on other matters it is prudent we do not meet until these decisions are finalised and the course of action finalised

Regards

**Bill Lyon | Chief Executive Officer || Redland City Council |**

Cnr Middle and Bloomfield Streets, Cleveland QLD 4163

PO Box 21, Cleveland QLD 4163 Australia

T 61 7 3829 8860 | F 61 7 3829 8765

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Pages 7 through 12 redacted for the following reasons:

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Irrelevant Information

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## Tracey Cooke

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**From:** Kerry Warrilow  
**Sent:** Tuesday, 23 January 2018 2:37 PM  
**To:** Kerry Warrilow  
**Subject:** FW: Invitation to speak  
**Attachments:** RBRA - Storm tide and revetment walls.docx

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**From:** Kim Kerwin  
**Sent:** Friday, 22 July 2016 11:40 AM  
**To:** Cr Wendy Boglary; Cr Peter Mitchell  
**Cc:** Heather Squires; Rodney Powell; Deborah Corbett-Hall  
**Subject:** FW: Invitation to speak

Councillors

Please find attached a briefing note prepared for your upcoming meeting with the RBRA.

The following fact sheet is a guide to building provisions in planning schemes, setting out matters a planning scheme can include and may assist with your understanding of the approach to revetment wall setbacks taken in draft City Plan.

<http://www.hpw.qld.gov.au/SiteCollectionDocuments/GuideToBuildingProvisionsInPlanningSchemesFactSheet.pdf>

A briefing can be arranged to run through the information prior to the meeting.

Regards  
Kim

**Kim Kerwin**  
**Manager Economic Sustainability and Major Projects**  
**Community & Customer Services** | Redland City Council  
☎ 3829 8503 📠 3829 8809 Mobile 0417 664 655  
✉ [Kim.Kerwin@redland.qld.gov.au](mailto:Kim.Kerwin@redland.qld.gov.au)  
Cnr Middle & Bloomfield Sts, Cleveland Qld 4163  
PO Box 21, Cleveland Qld 4163

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I acknowledge the traditional custodians on the lands and seas where I work. I pay my respects to Elders, past, present and future.

---

**From:** Cr Wendy Boglary  
**Sent:** Monday, 18 July 2016 1:00 PM  
**To:** Heather Squires  
**Cc:** Cr Peter Mitchell; Kim Kerwin; Deborah Corbett-Hall; Rodney Powell  
**Subject:** FW: Invitation to speak

Hello Heather  
Please could the following be forwarded to  
Kim Kerwin to answer the draft City Plan questions?



If possible I think a meeting might be required with Kim for the draft City Plan questions.

Thank you

Warm Regards,

**Cr. Wendy Boglary**

**Deputy Mayor**

Division 1 Councillor  
Redland City Council  
Ph: 3829 8619  
[wendy.boglary@redland.qld.gov.au](mailto:wendy.boglary@redland.qld.gov.au)

**find me on facebook Wendy Boglary to have regular updates**

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*Keeping Redlands Redlands*

On 17 July 2016 at 13:16, Cr Peter Mitchell <[Peter.Mitchell@redland.qld.gov.au](mailto:Peter.Mitchell@redland.qld.gov.au)> wrote:

Dear [REDACTED]

I have spoken with Cr Boglary and at this stage we are both pleased to be attending.

We can work out the finer detail closer to.

Thank you for the invitation,

Peter Mitchell

Pages 15 through 16 redacted for the following reasons:

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Irrelevant Information

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# Guide to building provisions in planning schemes



## Matters a planning scheme **can** include

Sections 32 and 33 of the *Building Act 1975 (BA)* and the *Building Regulation 2006* provide for the matters a planning scheme may include. These matters include:

- ✓ Alternative boundary clearances and site cover provisions for class 1 and 10 buildings and structures e.g. front, side and rear boundary setbacks and the maximum area covered by all buildings and structures.
- ✓ Variations to certain matters for class 1 and 10 buildings and structures provided for in parts MP 1.1, MP 1.2 and MP 1.3 of the Queensland Development Code (QDC). These include:
  - ✓ heights of buildings related to obstruction and overshadowing
  - ✓ siting and design of buildings to provide visual privacy and adequate sight lines (for corner blocks)
  - ✓ on-site car-parking requirements
  - ✓ outdoor living spaces.
- ✓ Designating bushfire prone areas for the Building Code of Australia or QDC
- ✓ Designating a natural hazard management area (flood) and declaring a defined flood level, maximum flow velocity of water, inactive flow or backwater area, freeboard that is more than 300 millimetres or finished floor level of class 1 buildings built in all or part of the designated flood area.

- ✓ Designating transport noise corridors for the purpose of QDC MP 4.4.
- ✓ Additional end-of-trip facilities to those imposed by QDC MP 4.1 e.g. bicycle parking and storage facilities, locker facilities, change rooms, showers, sanitary compartments, wash basins and mirrors.

### Useful information

There are a number of ways building assessment provisions (BAPs) can be included in a planning scheme. This can be through tables of assessment for building work, an overlay or codes. Part 1.6(4) of the Queensland Planning Provisions v3 (Module A) is intended to provide a quick reference for building certifiers to enable them to easily locate the BAPs within a planning scheme.

Building matters designated or defined in a local planning instrument are automatically picked up as part of the BAPs. Local government may also be prescribed as a referral agency for matters under Schedule 7 of the *Sustainable Planning Regulation 2009*.

Under section 271 of the *Sustainable Planning Act 2009* (SPA), a local government may give a referral agency response before a development application is made. The response will then be considered when the building application is made. A local government can consider giving a concurrence agency response as part of an earlier development application.

## Provisions to be aware of when including matters in a planning scheme

- SPA section 78A—states that a local planning instrument (which includes a planning scheme) **must not** include provisions about building work to the extent the building work is regulated under the building assessment provisions (BAPs) unless permitted under the BA. Section 78A must be read in conjunction with sections 32 and 33 of the BA (see above).
- BA section 30 states what the BAPs are.
- BA section 31(4) states that a local planning instrument must not include provisions about building work, to the extent the building work is regulated under a BAP. The primary purpose of these sections is to avoid duplication in assessment processes.



## Matters a planning scheme **cannot** include

### 1. Provisions found in the current parts (unless specifically permitted) of the QDC. These include:

- ✗ Part 1.4 Building over or near relevant infrastructure (sewers, water mains, stormwater drains and combined sanitary drains)
- ✗ Part 2.0 Fire safety (for budget accommodation buildings and residential care buildings)
- ✗ Part 3.0 Special buildings
- ✗ Part 4.0 Building sustainability
- ✗ Part 5.0 General health, safety and amenity
- ✗ Part 6.0 Maintenance of buildings

### 2. Provisions found in the Building Code of Australia (BCA)

Generally, the following matters in the BCA are BAPs (this list is not exhaustive) and these cannot be included in a planning scheme unless permitted by the BA:

- ✗ The structural stability of the building (e.g. footings). This includes the structural resistance that materials and forms of construction (e.g. slab on ground) must achieve to withstand floods, cyclones, landslip, earthquakes, etc.
- ✗ Fire safety and fire resistance of a building including the separation distances between buildings, fire protection to external walls (including any openings such as windows) and the splitting up of the internal spaces of the building into separated fire compartments.
- ✗ Fire safety standards for buildings constructed in bushfire prone areas. Matters about the construction of buildings, including building orientation, boundary clearance requirements and distances of buildings or structures from vegetation to address a bushfire hazard.
- ✗ Fire safety equipment that must be installed in a building including fire fighting equipment (e.g. fire hydrants, hose reels, portable fire extinguishers, etc), smoke hazard management (e.g. smoke detectors and alarms) and emergency lighting and signs.
- ✗ Lift installations for emergency egress, disability access etc.
- ✗ The provision of access and facilities for people with disabilities from the point of entry of a site up to, and within, a building. This includes the number and design of accessible parking spaces on a site.
- ✗ Damp and weatherproofing, sanitary facilities, room sizes, light and ventilation, sound insulation and the ability to resist the effects of termites.
- ✗ Structures that are ancillary to the main use of the building including minor structures (swimming pools, vaults, cool rooms), heating appliances (fireplaces, flues and chimneys), and atrium construction.
- ✗ Energy efficiency standards that apply to the construction of a building. For example, standards that specify the thermal resistance (star rating) of a building or material, ventilation requirements, orientation of the building, the provision of shading devices (where not for privacy) etc.
- ✗ Telecommunications facilities within a building.
- ✗ The maintenance of equipment in buildings.

#### For more information, contact:

Building Codes Queensland  
Department of Housing and Public Works  
GPO Box 2457 Brisbane QLD 4001 Australia  
tel 13 QGOV (13 7468)  
[www.hpw.qld.gov.au](http://www.hpw.qld.gov.au)

### Summary of guiding principles

- Planning schemes set out whether development can occur in an area.
- Building assessment provisions (BAPs) detail how to build.
- It is generally not appropriate for BAPs to be included in a planning scheme.
- Remember – including BAPs in a local planning instrument is only permitted in exceptional cases.

# briefing note

**To:** Crs Boglary and Mitchell **Date:** 21 July 2016  
**From:** Principal Adviser, Chris Vize **File:** N/A  
**Subject:** Information for meeting with Raby Bay Ratepayer's Association

## SUMMARY

This briefing note provides some background information on matters that may be raised in the Raby Bay Ratepayer's Association meeting in relation to how the draft City Plan addresses storm tide hazard and manages impacts on revetment walls.

## ISSUES



## Impacts on revetment walls

### Brief history

- There were covenants over Raby Bay properties that excluded any structures or buildings within 9 metres of the revetment walls.
- Past legal advice indicated that these covenants were not binding on successors (would not apply to new owners), and therefore Council sought to find a different mechanism to manage the impacts of buildings and structures on the revetment walls.
- *This is where the philosophy of it being a '9 metre exclusion zone' comes from. In planning terms, it can never be an 'exclusion zone', as the Sustainable Planning Act does not allow Council to prohibit development.*

### Current planning scheme

- At present, the Redlands Planning Scheme 2006 includes an overlay called the 'Canal and Lakeside Structures Overlay', which triggers a planning application to be lodged for buildings and structures that are proposed within 9 metres of the revetment wall.
- This application is then assessed against the overlay code, which includes outcomes ensuring that development:
  - Does not impact on the structural integrity of the revetment wall;
  - Maintains the amenity of adjoining properties (through consistent setback alignments from the canal); and
  - Does not prevent legal public access to the water's edge (e.g. don't build within an easement that provides legal access).
- Importantly, the assessment is against performance outcomes (as the Sustainable Planning Act requires); it cannot mandate a 9 metre setback, it can only provide this as "one way" of achieving the performance outcomes.
- If, through a planning application, they can demonstrate that the structure will not have an impact on the structural integrity of the wall, will maintain amenity and does not affect legal public access, then it must be approved.



# briefing note

## Draft City Plan

- Draft City Plan takes a different approach, based on the relationship between the Sustainable Planning Act (SPA) and the Building Act.
- Section 78A of the SPA states that a local planning instrument must not include provisions for building work, to the extent that the building work is regulated under the **building assessment provisions**, unless permitted by the Building Act. The primary purpose is to avoid duplication in the assessment process.
- Structural integrity is a **building assessment provision** outlined in the Building Code of Australia (**BCA**), and therefore cannot be regulated by the planning scheme.
- In this regard, the draft City Plan does not regulate the impact of buildings and structures on revetment walls. This is the purpose of the **BCA**, and must be assessed as part of a building application (not a planning application).
- However, Section 33 of the Building Act does allow a planning scheme to include provisions for setbacks in relation to amenity.
- Therefore, the draft City Plan does include a setback of 9 metres to the rear boundary. However, the performance outcome is only about amenity, and not about structural impacts on the revetment wall.
- Where a dwelling house (or extension to a dwelling house) is proposed within 9 metres of the rear boundary, it will require a planning application to be lodged.
- It is then assessed against the performance outcome.
- In order to highlight the significance of revetment walls, the draft City Plan includes a note to emphasise to building certifiers that they (as always) should obtain appropriate engineering certification prior to approving any structures. The note reads:

Editor's note—Applicants should also be aware that structures near a canal or revetment wall must maintain the structural integrity of the wall, in accordance with the Building Code of Australia. Any construction closer than 9m would need to be supported by the correct building structural design certificates which prove that any works within this distance will not cause any movement or damage to the existing revetment wall or bank which may have a limited capacity to withstand additional loadings. These matters are to be addressed in any application for building works.

## NOTED AND AGREED

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**Kim Kerwin**  
Group Manager

## Tracey Cooke

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**From:** Kerry Warrilow  
**Sent:** Tuesday, 23 January 2018 2:37 PM  
**To:** Kerry Warrilow  
**Subject:** FW: Invitation to speak  
**Attachments:** RBRA - Storm tide and revetment walls.docx

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**From:** Chris Vize  
**Sent:** Thursday, 21 July 2016 4:24 PM  
**To:** Kim Kerwin  
**Subject:** RE: Invitation to speak

Hi Kim,  
Briefing note for your review and forwarding on. I also think including the fact sheet below does assist as well.

<http://www.hpw.qld.gov.au/SiteCollectionDocuments/GuideToBuildingProvisionsInPlanningSchemesFactSheet.pdf>

Cheers,

**Regards**

Chris Vize  
Principal Advisor Strategic Coordination  
Economic Sustainability & Major Projects Group  
Redland City Council  
*Cnr Bloomfield and Middle Streets, Cleveland Qld 4163*  
*PO Box 21, Cleveland QLD 4163*  
(07) 3829 8813

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**From:** Kim Kerwin  
**Sent:** Thursday, 21 July 2016 2:21 PM  
**To:** Chris Vize  
**Subject:** FW: Invitation to speak

Chris – I have the information from Adam. Did you forward to Dean to draft a response to the Storm Tide question? I can send it now.

---

**From:** Kim Kerwin  
**Sent:** Monday, 18 July 2016 2:11 PM  
**To:** Chris Vize  
**Cc:** Adam Webb  
**Subject:** FW: Invitation to speak

Chris – please see following request from Cr Boglary.

The meeting agenda ties in with letter to Graham Simpson regarding revetment walls (9m 'exclusion' zone) as well as covering storm tide. Can you please coordinate draft information for both councillors for upcoming the RBRA meeting 8 August.

Thanks  
Kim



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**From:** Cr Wendy Boglary  
**Sent:** Monday, 18 July 2016 1:00 PM  
**To:** Heather Squires  
**Cc:** Cr Peter Mitchell; Kim Kerwin; Deborah Corbett-Hall; Rodney Powell  
**Subject:** FW: Invitation to speak

Hello Heather  
Please could the following be forwarded to  
Kim Kerwin to answer the draft City Plan questions?

If possible I think a meeting might be required with Kim for the draft City Plan questions.

Thank you

Warm Regards,

**Cr. Wendy Boglary**

**Deputy Mayor**

Division 1 Councillor  
Redland City Council  
Ph: 3829 8619  
[wendy.boglary@redland.qld.gov.au](mailto:wendy.boglary@redland.qld.gov.au)

find me on facebook Wendy Boglary to have regular updates

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On 17 July 2016 at 13:16, Cr Peter Mitchell <[Peter.Mitchell@redland.qld.gov.au](mailto:Peter.Mitchell@redland.qld.gov.au)> wrote:

Dear [REDACTED]

I have spoken with Cr Boglary and at this stage we are both pleased to be attending.

We can work out the finer detail closer to.

Thank you for the invitation,

Peter Mitchell

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## Tracey Cooke

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**From:** Kerry Warrilow  
**Sent:** Tuesday, 23 January 2018 2:35 PM  
**To:** Kerry Warrilow  
**Subject:** FW: Nine Metre 'Exclusion' Zone  
**Attachments:** 160825 - Letter to Graham Simpson RCC.docx; RE: Nine Metre Exclusion Zone

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**From:** Graham Simpson  
**Sent:** Friday, 26 August 2016 10:10 AM  
**To:** Chris Vize  
**Cc:** Kim Kerwin; Jessica Galloway  
**Subject:** FW: Nine Metre 'Exclusion' Zone

Hi Chris

Please find attached further correspondence from [REDACTED] Can you please make contact with him to discuss timing around a response and let us know when the response is done just for our correspondence tracking process. Previous email discussion attached for reference. Thanks.

Regards

**Graham Simpson**

Service Manager  
Development Control Unit | Environment and Regulation Group|  
Redland City Council  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
PO Box 21, Cleveland QLD 4163 |  
**Phone:** (07) 3829-8438 | **Fax:** (07) 3829-8765 |  
**Email:** [graham.simpson@redland.qld.gov.au](mailto:graham.simpson@redland.qld.gov.au) |

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Page 26 redacted for the following reason:

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Irrelevant Information

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## Tracey Cooke

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**From:** Chris Vize  
**Sent:** Friday, 12 August 2016 8:50 AM  
**To:** Graham Simpson  
**Subject:** RE: Nine Metre Exclusion Zone

Hi Graham, sorry realised after I sent the email that I was talking about two different things. The alternative QBCC advices are in relation to whether storm tide provisions can be managed through a concurrence referral under Sch 7 the Regs... a whole other issue. I don't believe the drafting team ever sought or received advice from QBCC on the revetment wall/ BAP issue.

Cheers,  
Chris

---

**From:** Graham Simpson  
**Sent:** Friday, 12 August 2016 8:40 AM  
**To:** Chris Vize  
**Subject:** RE: Nine Metre Exclusion Zone

Hi Chris

Thanks for the update. Can I look at the QBCC advice if possible and am happy to take it up separately with QBCC as to specific provisions they believe would be enforceable.

I have started the advocacy route with other Council's and QBCC already and there is only limited interest, those Council's with canals of course. I think one of the problems is that revetment walls are engineered differently in different areas i.e. on sand v reclaimed mud. Our particular revetment walls are quite fragile unfortunately so probably gives us a specific problem.

Regards

**Graham Simpson**

Service Manager  
Development Control Unit | Environment and Regulation Group|  
Redland City Council  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
PO Box 21, Cleveland QLD 4163 |  
**Phone:** (07) 3829-8438 | **Fax:** (07) 3829-8765 |  
**Email:** [graham.simpson@redland.qld.gov.au](mailto:graham.simpson@redland.qld.gov.au) |

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---

**From:** Chris Vize  
**Sent:** Thursday, 11 August 2016 10:19 AM  
**To:** Graham Simpson  
**Subject:** RE: Nine Metre Exclusion Zone

Hi Graham,

From what I can gather from the drafting team, we have two alternative views from QBCC on the subject. I think the advocacy approach to the State to include revetment walls as part of QDCMP1.4 is the best option, and we will work on this approach, and raise it with other Councils.

Cheers,

## Regards

Chris Vize

Principal Advisor Strategic Coordination

Economic Sustainability & Major Projects Group

Redland City Council

Cnr Bloomfield and Middle Streets, Cleveland Qld 4163

PO Box 21, Cleveland QLD 4163

(07) 3829 8813

---

**From:** Graham Simpson

**Sent:** Thursday, 21 July 2016 3:49 PM

**To:** Kim Kerwin

**Cc:** Chris Vize

**Subject:** RE: Nine Metre Exclusion Zone

Thanks Kim for the update, I appreciate it.

Further to this issue, I have made this comment before but will add it here again as I really do think we should get very specific advice from the State about what building assessment provisions specifically and technically apply to building work near canal revetment walls. My previous comments were:

*Probably one further comment is that I would be questioning the State as to where exactly the Building Assessment Provisions deal with building work near a revetment wall. My view is that the Building Assessment Provisions don't deal with it effectively and just as importantly there is very limited prospects for enforcing any non-compliance.*

*The relevant BCA clause the State would nominate is likely to be H2.1.1 of Volume 2 Structural stability and resistance to actions. The principles of this clause are sound but unfortunately it does not apply to building works adjacent a revetment wall as for the clause to apply the building works must impact an allotment or a road.*

*If we are to rely on Building Assessment Provisions we need to lobby the State to either have the BCA amended or probably as a better alternative include revetment walls as part of QDC MP1.4 Building over or near relevant infrastructure. The second option is clearly preferable due to building certifiers having a clear understanding of its mandatory application to building works.*

*Nonetheless, I would ask the State which Building Assessment Provisions we can apply to building works near revetment walls and if they cannot provide a response which we can enforce, then I would argue we are then free to add structural elements in the planning scheme to protect our infrastructure.*

Perhaps you have already obtained the specific building assessment provisions by the State and if so can you let me know so I can consider how they may be enforced. Let me know if I can assist with this process. Thanks.

Regards

**Graham Simpson**

Service Manager

Development Control Unit | Environment and Regulation Group |

Redland City Council

Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |

PO Box 21, Cleveland QLD 4163 |

**Phone:** (07) 3829-8438 | **Fax:** (07) 3829-8765 |

**Email:** [graham.simpson@redland.qld.gov.au](mailto:graham.simpson@redland.qld.gov.au) |

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**From:** Kim Kerwin  
**Sent:** Thursday, 21 July 2016 2:48 PM  
**To:** Graham Simpson  
**Cc:** Chris Vize  
**Subject:** FW: Nine Metre Exclusion Zone

Graham – fyi.

Note – We are preparing a briefing note for Crs Mitchell and Boglary for the RBRA meeting addressing agenda items on the revetment wall setback provision in draft City Plan and the storm tide overlay review.

Regards  
Kim

---

**From:** Adam Webb  
**Sent:** Wednesday, 20 July 2016 1:11 PM  
**To:** Kim Kerwin  
**Cc:** Chris Vize  
**Subject:** RE: Nine Metre Exclusion Zone

Hi Kim/Chris,

I refer to Raby Bay Ratepayers Association Inc (RBRA) letters dated 14 July 2016.

In relation to the draft City Plan's ability to do this I note the following aspects:

#### SPA

Section 78A of the Sustainable Planning Act states that a local planning instrument must not include provisions about building work, to the extent the building work is regulated under the building assessment provisions, unless permitted under the Building Act. The primary purpose of this is to avoid duplication in the assessment processes.

#### **78A Relationship between local planning instruments and Building Act**

*(1) A local planning instrument must not include provisions about building work, to the extent the building work is regulated under the building assessment provisions, unless permitted under the Building Act.*

*Note—*

*The Building Act, sections 31, 32 and 33 provide for matters about the relationship between local planning instruments and that Act for particular building work.*

*(2) To the extent a local planning instrument does not comply with subsection (1), the local planning instrument has no effect.*

*(3) In this section— **building assessment provisions** does not include IDAS or a provision of a local planning instrument.*

#### **Building Act**

Further, the Building Act states the following:

- S32 of the Building Act states that a planning scheme can make or amend matters prescribed under a regulation. Such as bush fire, swimming pool fencing or flood prone land.
- S33 of the Building Act applies to alternative provisions to boundary clearances and site cover provisions.

So Council can stipulate an alternative boundary clearance to the rear property boundary (where the revetment wall happens to be). However, Council can only do this under Sustainable Planning Regulation 2009 Schedule 7 Table 1 Design and Siting to address issues such as amenity, solar access, ventilation and privacy impacts on adjoining lots as a result of an amended rear setback. Council can not prescribe additional requirements related to loading and structural requirements. This is because loading and structural requirements are already regulated by the Building Code Australia (BCA) and a planning scheme must not duplicate process.

Additional, information regarding this can be found on the State Government's fact sheet on the following link  
<http://www.hpw.qld.gov.au/SiteCollectionDocuments/GuideToBuildingProvisionsInPlanningSchemesFactSheet.pdf>

## What the draft City Plan can do

In order to highlight the significance of revetment walls, the draft City Plan includes a note to emphasise to building certifiers that they (as always) should obtain the appropriate engineering certification prior to approving any structures. The note reads:

Editor's note—Applicants should also be aware that structures near a canal or revetment wall must maintain the structural integrity of the wall, in accordance with the Building Code of Australia. Any construction closer than 9m would need to be supported by the correct building structural design certificates which prove that any works within this distance will not cause any movement or damage to the existing revetment wall or bank which may have a limited capacity to withstand additional loadings. These matters are to be addressed in any application for building works.

Regards,

**Adam Webb**

**Senior Planner**

**Planning Scheme Review**

**Economic Sustainability & Major Projects Group | Redland City Council**

**PO Box 21 Cleveland QLD 4163**

☎ (07) 3829-8268 | e-✉ Adam.Webb@redland.qld.gov.au



---

**From:** Chris Vize

**Sent:** Wednesday, 20 July 2016 8:47 AM

**To:** Adam Webb

**Subject:** FW: Nine Metre Exclusion Zone

Hi Adam,

Could you please draft a response on this one and send through to Kim CC me, as I'm in training today.

I'll send you a couple of emails with background to assist, and also this fact sheet may assist:

<http://www.hpw.qld.gov.au/SiteCollectionDocuments/GuideToBuildingProvisionsInPlanningSchemesFactSheet.pdf>

**Regards**

**Chris Vize**

**Principal Advisor Strategic Coordination**

**Economic Sustainability & Major Projects Group**

**Redland City Council**

**Cnr Bloomfield and Middle Streets, Cleveland Qld 4163**

**PO Box 21, Cleveland QLD 4163**

**(07) 3829 8813**

---

**From:** Kim Kerwin

**Sent:** Monday, 18 July 2016 2:05 PM

**To:** Chris Vize

**Cc:** Adam Webb

**Subject:** FW: Nine Metre Exclusion Zone

Chris - please coordinate drafting a response re City Plan components.



**From:** Graham Simpson  
**Sent:** Friday, 15 July 2016 3:28 PM  
**To:** David Jeanes; Kim Kerwin  
**Cc:** Bill Lyon; Louise Rusan; Gary Soutar; Michelle Richards; Rodney Powell  
**Subject:** FW: Nine Metre Exclusion Zone

Hi Kim, David

Please note attached letter from Raby Bay Ratepayers Association in regards protection of canal walls in Raby Bay. In summary they are advising/requesting:

- What are the long term plans and regulations proposed for protection of the revetment walls from development through the CityPlan

I am not sure who may be best placed to respond to the correspondence but their letter seems to want the CityPlan to address the issue going forward and that they be provided with feedback as it progresses. Can you please advise. Thanks.

regards

**Graham Simpson**

Service Manager  
Development Control Unit | Environment and Regulation Group|  
Redland City Council  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
PO Box 21, Cleveland QLD 4163 |  
**Phone:** (07) 3829-8438 | **Fax:** (07) 3829-8765 |  
**Email:** [graham.simpson@redland.qld.gov.au](mailto:graham.simpson@redland.qld.gov.au) |

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Pages 32 through 34 redacted for the following reasons:

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## Tracey Cooke

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**From:** Kerry Warrilow  
**Sent:** Tuesday, 23 January 2018 2:16 PM  
**To:** Kerry Warrilow  
**Subject:** FW: PLEASE READ/ACTION: Forthcoming Meeting

---

**From:** Lynda Clarke  
**Sent:** Friday, 27 January 2017 10:31 AM  
**To:** Kim Kerwin  
**Subject:** RE: PLEASE READ/ACTION: Forthcoming Meeting

Shall do.  
Thanks.

Cheers.  
*Lynda.*

*Lynda Clarke*

Department Co-ordinator |  
Community and Customer Services | Redland City Council |  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
PO Box 21, Cleveland QLD 4163 |  
**Phone:** (07) 3829-8557 | **Fax:** (07) 3829-8295 |  
**Email:** [lynda.clarke@redland.qld.gov.au](mailto:lynda.clarke@redland.qld.gov.au) | **Web:** [www.redland.qld.gov.au](http://www.redland.qld.gov.au)



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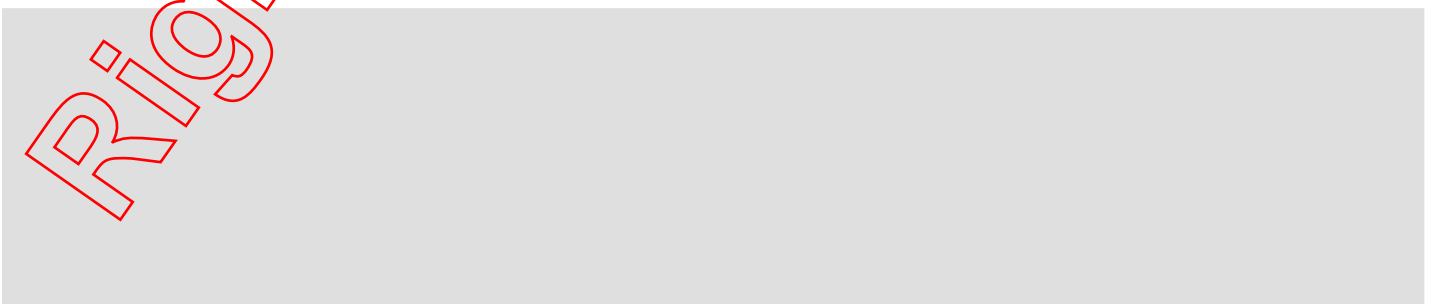
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**From:** Kim Kerwin  
**Sent:** Friday, 27 January 2017 10:18 AM  
**To:** Lynda Clarke  
**Subject:** FW: PLEASE READ/ACTION: Forthcoming Meeting

Lynda – response reviewed, two minor edits: please send the following responses to the CEO on my behalf.

Thanks  
Kim

Draft response for those two items:



### Revetment wall setbacks

At present, the Redlands Planning Scheme 2006 includes an overlay called the 'Canal and Lakeside Structures Overlay', which triggers a planning application to be lodged for buildings and structures that are proposed within 9 metres of the revetment wall. This application is then assessed against the overlay code, which includes outcomes ensuring that development:

- Does not impact on the structural integrity of the revetment wall;
- Maintains the amenity of adjoining properties by maintaining consistency with building setbacks of adjoining structures and not dominating or detracting from the landscape setting; and
- Does not prevent legal public access to the water's edge (e.g. not to build within an easement that provides legal access).

Importantly, the assessment is against performance outcomes (as the Sustainable Planning Act requires); it cannot mandate a 9 metre setback, it can only provide this as "one way" of achieving the performance outcomes. If, through a planning application, they can demonstrate that the structure will not have an impact on the structural integrity of the wall, will maintain amenity and does not affect legal public access, then it must be approved by Council. This is where Council can currently request engineering certification prior to approving the structures – in order to demonstrate that the development will not impact on the structural integrity of the wall (as required by the specific outcome identified above).

Draft City Plan takes a different approach, based on the relationship between the Sustainable Planning Act (SPA) and the Building Act. Section 78A of the SPA states that a local planning instrument must not include provisions for building work, to the extent that the building work is regulated under the **building assessment provisions**, unless permitted by the Building Act. The primary purpose is to avoid duplication in the assessment process. Structural integrity is a **building assessment provision** outlined in the Building Code of Australia (BCA), and therefore cannot be regulated by the planning scheme. In this regard, the draft City Plan does not regulate the impact of buildings and structures on revetment walls. This is the purpose of the **BCA**, and must be assessed as part of a building application (not a planning application).

However, Section 33 of the Building Act does allow a planning scheme to include provisions for setbacks in relation to amenity. Therefore, the draft City Plan does include a setback of 9 metres to the rear boundary. However, the performance outcome is only about amenity, and not about structural impacts on the revetment wall. Where a dwelling house (or extension to a dwelling house) is proposed within 9 metres of the rear boundary, it will require a planning application to be lodged. It is then assessed against the performance outcome. In order to highlight the significance of revetment walls, the draft City Plan includes a note to emphasise to building certifiers that they (as always) should obtain appropriate engineering certification prior to approving any structures. The note reads:

*Editor's note—Applicants should also be aware that structures near a canal or revetment wall must maintain the structural integrity of the wall, in accordance with the Building Code of Australia. Any construction closer than 9m would need to be supported by the correct building structural design certificates which prove that any works within this distance will not cause any movement or damage to the existing revetment wall or bank which may have*

a limited capacity to withstand additional loadings. These matters are to be addressed in any application for building works.

## Regards

Chris Vize

Principal Advisor Strategic Coordination  
Economic Sustainability & Major Projects Group  
Redland City Council  
Cnr Bloomfield and Middle Streets, Cleveland Qld 4163  
PO Box 21, Cleveland QLD 4163  
(07) 3829 8813

---

**From:** Lynda Clarke

**Sent:** Tuesday, 24 January 2017 10:43 AM

**To:** Chris Vize

**Cc:** Kim Kerwin; Tina Robinson; Lynda Clarke

**Subject:** PLEASE READ/ACTION: Forthcoming Meeting

**Importance:** High

Chris – on behalf of the CEO and Kim (Acting CEO) could you please draft a response with respect to contents in the attached letter pertaining to:

- Page 3 – Nine Metre Exclusion Zone.

As the CEO has requested comments by 27/01 and Thursday is a public holiday – could you please provide your draft to Kim (c.c. Me) **by COB tomorrow – 25/01.**

If you require any further clarification, please do not hesitate to contact me.

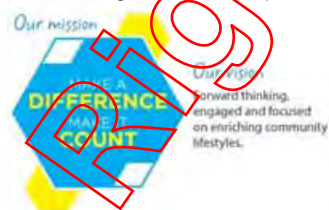
*If there is anything else I can assist you with, please let me know.*

Cheers.

**Lynda.**

**Lynda Clarke**

Department Co-ordinator |  
Community and Customer Services | Redland City Council |  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
PO Box 21, Cleveland QLD 4163 |  
**Phone:** ☎ (07) 3829-8557 | **Fax:** (07) 3829-8295 |  
**Email:** ✉ lynda.clarke@redland.qld.gov.au | **Web:** www.redland.qld.gov.au



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**From:** Bill Lyon  
**Sent:** Tuesday, 24 January 2017 9:47 AM  
**To:** Executive Leadership Group  
**Cc:** Councillors; Tina Robinson  
**Subject:** FW: Forthcoming Meeting

Team,

Could you please provide some written responses to the attached and forward to me by COB 27<sup>th</sup> So I can respond to the issues etc raised.

Given the advice and direction we are seeking on other matters it is prudent we do not meet until these decisions are finalised and the course of action finalised

Regards

**Bill Lyon | Chief Executive Officer || Redland City Council |**  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163  
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**Sent:** Tuesday, 23 January 2018 2:16 PM  
**To:** Kerry Warrilow  
**Subject:** FW: PLEASE READ/ACTION: Forthcoming Meeting

---

**From:** Lynda Clarke  
**Sent:** Friday, 27 January 2017 9:23 AM  
**To:** Kim Kerwin  
**Subject:** PLEASE READ/ACTION: Forthcoming Meeting

Kim – morning, let me know if you wish me to forward to Bill (Tina) – when you have reviewed.  
Comments due to the CEO today.  
FYI.

*If there is anything else I can assist you with, please let me know.*

Cheers.  
**Lynda.**

**Lynda Clarke**

Department Co-ordinator |  
Community and Customer Services | Redland City Council |  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
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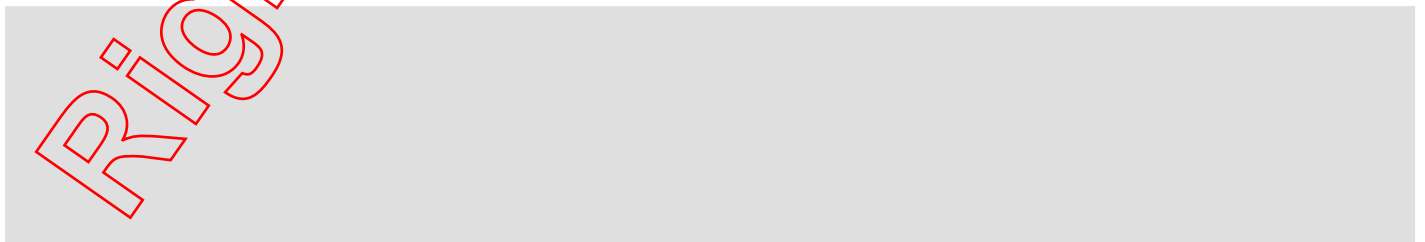


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**From:** Chris Vize  
**Sent:** Wednesday, 25 January 2017 4:15 PM  
**To:** Lynda Clarke; Kim Kerwin  
**Subject:** RE: PLEASE READ/ACTION: Forthcoming Meeting

Draft response for those two items:





### Revetment wall setbacks

At present, the Redlands Planning Scheme 2006 includes an overlay called the 'Canal and Lakeside Structures Overlay', which triggers a planning application to be lodged for buildings and structures that are proposed within 9 metres of the revetment wall. This application is then assessed against the overlay code, which includes outcomes ensuring that development:

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a limited capacity to withstand additional loadings. These matters are to be addressed in any application for building works.

## Regards

Chris Vize

Principal Advisor Strategic Coordination  
Economic Sustainability & Major Projects Group  
Redland City Council  
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PO Box 21, Cleveland QLD 4163  
(07) 3829 8813

---

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**Sent:** Tuesday, 24 January 2017 10:43 AM  
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**Cc:** Kim Kerwin; Tina Robinson; Lynda Clarke  
**Subject:** PLEASE READ/ACTION: Forthcoming Meeting  
**Importance:** High

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- Page 3 – Nine Metre Exclusion Zone.

As the CEO has requested comments by 27/01 and Thursday is a public holiday – could you please provide your draft to Kim (c.c. Me) **by COB tomorrow – 25/01.**

If you require any further clarification, please do not hesitate to contact me.

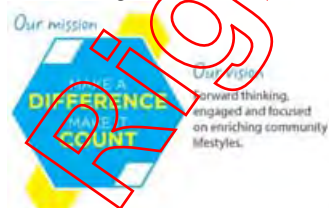
*If there is anything else I can assist you with, please let me know.*

Cheers.

**Lynda.**

**Lynda Clarke**

Department Co-ordinator |  
Community and Customer Services | Redland City Council |  
Cnr Middle and Bloomfield Streets, Cleveland QLD 4163 |  
PO Box 21, Cleveland QLD 4163 |  
**Phone:** ☎ (07) 3829-8557 | **Fax:** (07) 3829-8295 |  
**Email:** ✉ lynda.clarke@redland.qld.gov.au | **Web:** www.redland.qld.gov.au



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**From:** Bill Lyon  
**Sent:** Tuesday, 24 January 2017 9:47 AM  
**To:** Executive Leadership Group  
**Cc:** Councillors; Tina Robinson  
**Subject:** FW: Forthcoming Meeting

Team,

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Given the advice and direction we are seeking on other matters it is prudent we do not meet until these decisions are finalised and the course of action finalised

Regards

**Bill Lyon | Chief Executive Officer || Redland City Council |**  
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# Training Workshop

Theme: Canal, Poultry and  
Road/Rail Noise Overlays





# Overview

RPS 2006 Overlay	Does it exist in City Plan?	Commentary
Canal and Lakeside Structures Overlay		Provisions incorporated in the LDR zone code
Protection of the Poultry Industry Overlay		Provisions incorporated in the relevant development and zone codes
Road and Rail Noise Impacts Overlay		Included for information purposes only. QDC MP4.4 triggered.

An illustration on the left side of the slide shows a canal with a grey bridge arching over it. Below the bridge, there are several red-brick buildings with white window frames and doors. A small green tree is visible in front of one of the buildings. The sky is light blue with a few white clouds.

## What has Changed? – Canals and Lakeside Structures

- The Canal & Lakeside Structures Overlay no longer exists
- **Why?** To avoid duplication. Structural integrity is a building assessment provision outlined in the BCA
- **New approach:**
  - Dwelling houses (MCU) + Building Work are accepted development in the LDR Zone where located in Raby Bay, Aquatic Paradise and Sovereign Waters
  - Development is assessed against provisions relating to amenity in the zone code

DB1

## Slide 3

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DB1

Refer to A2190957 for further information  
Dean Butcher, 12/06/2017

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# LDR Zone Code

## Dwelling houses

Editor's note—The following acceptable outcomes are alternative provisions for the purposes of the Queensland Development Code.

### PO3

Development in Raby Bay, Aquatic Paradise and Sovereign Waters maintains the amenity of adjoining premises by;

- (1) maintaining consistency with the setbacks of adjoining buildings and structures; and
- (2) not dominating or detracting from the built form, waterway and landscape setting of the location.

### A03.1

Dwelling houses (including outbuildings) are set back 9m from the property boundary adjoining a canal wall, revetment wall or bank of an artificial water body.

Editor's note—Applicants should also be aware that structures near a canal or revetment wall must maintain the structural integrity of the wall, in accordance with the Building Code of Australia. Any construction closer than 9m would need to be supported by the correct building structural design certificates which prove that any works within this distance will not cause any movement or damage to the existing revetment wall or bank which may have a limited capacity to withstand additional loadings. These matters are to be addressed in any application for building works.



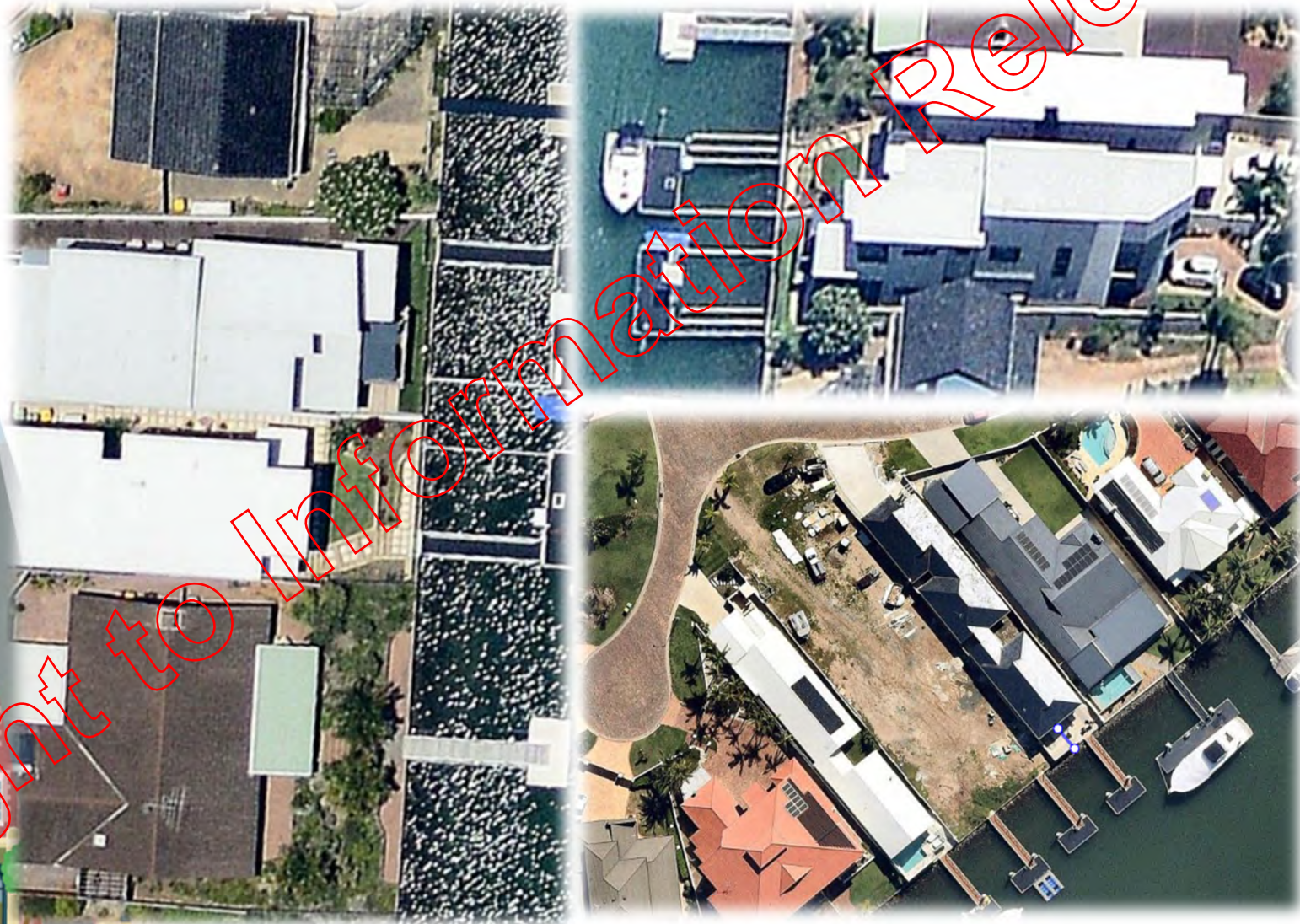
**How do you 'maintain the amenity' of adjoining premises?**





# How do you 'maintain amenity' of adjoining premises?

Continued



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