

Between: **ARUNDEL ESTATE DEVELOPMENTS PTY LTD (ACN 662 459 243)** Appellant
And: **COUNCIL OF THE CITY OF GOLD COAST** Respondent

NOTICE OF APPEAL

Filed on: 28 February 2024
Filed by: **MILLS OAKLEY**
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Reference: 9322866

ARUNDEL ESTATE DEVELOPMENTS PTY LTD (ACN 662 459 243) c/- Mills Oakley, Level 23, 66 Eagle Street, Brisbane, in the State of Queensland appeals to the Planning and Environment Court at Brisbane against the decision contained in the Respondent's decision notice dated 2 February 2024 whereby the Respondent refused the Appellant's development application for a preliminary approval for a material change of use, including a variation request, to vary the effect of the planning scheme City Plan version 9, in accordance with the Arundel Hills Development Code to facilitate low density residential development (maximum of 368 Lots), sport and recreation, conservation and open space, on land described as Lot 18 on SP231562 and Lot 21 on SP144763 on Arundel Drive, Arundel (**Development Application**) and seeks the following orders or judgment:

- (a) the appeal be allowed;
- (b) the Development Application be approved subject to conditions that are relevant to, but not an unreasonable imposition on the development or are reasonably required in respect of the development; and
- (c) such further or other orders as the Court deems appropriate.

The grounds of appeal are:

1. The land is:
 - (a) located at Lot 18 SP231562 and Lot 21 SP144763 on Arundel Drive, Arundel;
 - (b) Lot 18 SP231562 is 451,300m² in area;

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Filed on behalf of the Appellant

Form PEC-1



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- (c) Lot 21 SP144763 is 221,200m² in area;
 - (d) currently improved by an 18-hole golf course and a country club that is non-operational;
 - (e) included in the Sport and Recreation Zone of the Gold Coast City Plan Version 9 (**Planning Scheme**);
 - (f) subject to various overlays under the Planning Scheme.
2. On or about 17 March 2023, the Appellant lodged the Development Application with the Respondent.
 3. The Development Application seeks to vary the effect of the Respondent's planning scheme (City Plan version 9) to facilitate the development of the land for residential activities, sport and recreation activities, conservation and open space activities in accordance with the Arundel Hills Development Code.
 4. It is proposed that 4 precincts on the land are established:
 - (a) Precinct 1 - residential area (25.7ha) for up to 368 low-density urban residential lots varying in between 285m² and 1223m² with an average lot size of 475m².
 - (b) Precinct 2 - sport and recreation area (10.24ha) to be dedicated to A.B. Paterson College for use by both the college and the general public.
 - (c) Precinct 3 - conservation area (20.94ha) to be dedicated to the Respondent for environment and conversation purposes.
 - (d) Precinct 4 - open space area (10.27ha) to be dedicated to the Respondent to be used for active and passive recreation and open space.
 5. The Development Application was impact assessable under the Planning Scheme and received properly made submissions.
 6. By way of a decision notice dated 2 February 2024, the Respondent refused the Development Application.
 7. The decision to refuse the proposed development is erroneous, unreasonable and unlawful having regard to the matters below.
 8. For the reasons which are outlined in **Annexure A**, the Appellant considers that in respect of the benchmarks which have been relied on by the Respondent that:
 - (a) the proposed development complies or can be conditioned to comply with the assessment benchmarks;
 - (b) to the extent that there is any non-compliance with the assessment benchmarks, such non-compliance ought not stand in the way of approval of the proposed development.

Relevant Matters for Approval

9. Further, there are other relevant matters that warrant approval of the Development Application, including but not limited to the following:
 - (a) The proposed development represents logical and efficient infill development of an under-utilised site that currently is not providing any sport and recreation value.

- (b) The proposed development will not generate unacceptable adverse amenity impacts.
- (c) The proposed development would benefit the community in many ways identified below.

Town Planning

- (d) The proposed development would provide a compact urban neighbourhood.
- (e) The proposed development is an innovative land use solution which optimises the opportunities for urban development.
- (f) The proposed development enhances the preservation of sport and recreation facilities, open space and conservation areas.
- (g) The proposed development will improve the range of housing available in the locality.
- (h) The proposed development results in a more functional use of the land that would benefit the community.

Open space and recreation

- (i) The proposed development will provide an opportunity for the local community to have access to useable sport and recreation land. At present the land offers no real value as it is privately owned and no longer an operational golf course.
- (j) The proposed development seeks to retain approximately 41.02ha for sport, recreation and open space uses.
- (k) The proposed development strikes an appropriate balance between seeking to retain open space and recreation uses and the provision of housing.

Economic

- (l) The proposed development addresses a significant emerging undersupply of dwellings in the Gold Coast and more generally in south-east Queensland.
- (m) The proposed development will increase housing choice in the Arundel Hills area, contributing to affordability.
- (n) The proposed development will create employment opportunities both during the construction phase and through the lifetime of the development.

Social Wellbeing

- (o) The proposed development will contribute to and broaden the diversity of the community, increasing community wellbeing through providing community accessible sport and recreation areas and open space areas.
- (p) The proposed development will provide land which is able to be used by the community for sport and recreation.
- (q) The proposed development provides opportunity for a more connected locality presenting opportunities for a more walkable neighbourhood.

Environmental

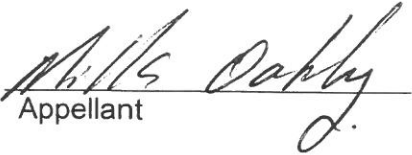
- (r) The proposed development enhances the existing habitat values of the site and would include intensive restoration and rehabilitation.
- (s) The proposed development intends to preserve and protect matters of environmental significance in perpetuity through the dedication of the conservation area.
- (t) The proposed development results in an improved environmental outcome for the land.

Transport

- (u) The proposed development will increase connectivity and accessibility within Arundel Hills.

Error in Council's Assessment

10. The Council's assessing officer's report for the development application contained the following material errors:
 - (a) The Council has failed to consider key matters supporting approval of the proposal being:
 - (i) the quantity and quality of the contribution being made to the sport and recreation network;
 - (ii) the contribution to meeting the public's need for housing;
 - (iii) the community benefits in provision of that further housing on an infill site, already fully serviced, rather than the much greater community cost in developing greenfield land;
 - (iv) the environmental benefits in dedication of 21ha of the site for permanent protection; and
 - (v) the balanced development outcome in locating housing predominately in existing cleared areas of the site whereas the areas of the site with the highest ecological values are protected.
 - (b) The Council has based its reasons for refusal on matters already entirely addressed in the supporting information to the application. Had the Council properly considered the technical reports supporting the application, particularly on traffic and ecological matters, it could not have refused the application on those grounds.
 - (c) The Council has failed to understand the Development Application and relied on an inaccurate understanding of it (including factual errors) to warrant refusal.
 - (d) The Council has prioritised the protection of the amenity of a small number of residents in the area over the broader community benefits of the proposal.
 - (e) The Council has failed to consider where appropriate conditions of approval could have been formulated to address design or impacts.
 - (f) The Council failed to consider how this Development Application can assist with addressing the critical undersupply of housing in Queensland and the Council's plan to 'unlock more housing'.
 - (g) The further errors contained within the table in **Annexure B** hereto.


Appellant

If you are named as a respondent in this notice of appeal and wish to be heard in this appeal you must:

- (a) within 10 business days after being served with a copy of this Notice of Appeal, file an Entry of Appearance in the Registry where this notice of appeal was filed or where the court file is kept; and**
- (b) serve a copy of the Entry of Appearance on each other party.**

The Entry of Appearance should be in Form PEC – 5 for the Planning and Environment Court.

If you are entitled to elect to be a party to this appeal and you wish to be heard in this appeal you must:

- (a) within 10 business days of receipt of this Notice of Appeal, file a Notice of Election in the Registry where this Notice of Appeal was filed or where the court file is kept; and**
- (b) serve a copy of the Notice of Election on each other party.**

The Notice of Election should be in Form PEC – 6 for the Planning and Environment Court.

Annexure A
Response to Planning Scheme Provisions Relied on to Refuse
Development Application

Sport and Recreation

Planning Scheme Provision Relied on by Council to Refuse Application	
<i>Strategic Framework -</i> Strategic outcome 3.5.1(3), Specific outcome 3.5.4.1(1)	The proposed development complies with or can be conditioned to comply as it supports and promotes lifestyle and adventure related industries through the dedication of land for sport and recreation uses which can be accessed and used by the public.
<i>Strategic Framework -</i> Specific outcome 3.7.3.1(1), (8), (9)	The proposed development complies with or can be conditioned to comply as it contributes to the health, wellbeing, scenic amenity and landscape of the community through: a) the preservation and enhancement of sporting and recreation areas and facilities accessible to the public; and b) improving the quality of green space and accessibility to green space.
<i>Strategic Framework -</i> Strategic outcome 3.8.1(9)	The proposed development complies as it will maximise the opportunity for community interaction by dedicating land to Council for the use of an operational sport and recreational facility.
<i>Strategic Framework -</i> Specific outcome 3.8.5.1(4) and (5)	The proposed development complies as it will introduce community infrastructure that will maximise social and physical accessibility for the community through providing useable sport and recreation areas.

<i>Sport and Recreation</i> <i>Zone Code – Overall</i> outcome 2a, 2b, 2c and 2d	The proposed development complies as it: a) provides for sport and recreational purposes to meet the needs of the community including ancillary structures, while maximising the highest and best use for the site; b) has a built form which will not impact on the amenity of open space area, and aligns to the character expectations of the existing residential neighbourhood; and c) ensures that the lots allocated for sport and recreation use are able to be utilised for a variety of sporting and recreational activities (tennis, basketball, football etc.) by both the public and local schools, community and sporting clubs. To the extent that the residential component of the proposed development does not comply, that non-compliance does not warrant refusal.
<i>Sport and Recreation</i> <i>Zone Code – AO8.1,</i> AO8.2 and PO8	The part of the proposed development which is intended to be used for sport and recreation is of a size and configuration which allow for a range of sport and recreation activities to occur. To the extent that the residential component of the proposed development does not comply, that non-compliance does not warrant refusal.
<i>Shaping SEQ – Goal 2</i> Element 6: Tourism Strategy 1 and 2	The proposed development complies as it will contribute to tourism by providing for: a) accessible and useable open space areas; b) conservation areas; and c) accessible and useable sport and recreation areas. The proposed development is not located within a rural

	area as such strategy 2 is not applicable.
<i>Shaping SEQ – Goal 4</i> Element 7: Health and Wellbeing Strategy 2, 4 and 5	The proposed development complies as it: a) will contribute to providing social infrastructure through the provision of housing and useable sport and recreation areas; and b) will enhance the community connections through providing useable recreational spaces which will be accessible by the public and utilised for educational purposes.

Visual Amenity and Character

Planning Scheme Provision	
<i>Strategic Framework -</i> Strategic outcomes 3.3.1 (3), (4), (8), (11)	The proposed development complies with or can be conditioned to comply for the reasons which are outlined below. 3.3.1(3) Housing form and character – the character of the proposed residential development is consistent with the surrounding existing neighbourhood by delivering low density and low rise dwellings. 3.3.1(4) Affordability – the proposed development will provide affordable housing (for a variety of community needs) in an established residential area which is close to facilities, services, public transport, employment and essential infrastructure. 3.3.1(8) Active transport and accessibility – the proposed development will result in providing more connectivity in the area through the provision of accessibility through the subject land via publicly accessible pedestrian pathways and road networks. 3.3.1(11) Suburban neighbourhood character – the proposed development maintains the low-density

	residential character of the area and will contribute to the enhancement of the character and amenity of the area by providing for useable and accessible open space for local residents, in a landscaped setting.
<i>Strategic Framework – Specific outcomes 3.3.3.1 (1), (7)</i>	The proposed development complies as it retains the local character of the area by seeking to establish low-density residential housing which is consistent with the existing scale, height and intensity of the area and maintaining (and enhancing the quality of) sport and recreation land which is consistent with the existing character of the Arundel Hills area. The proposed development will achieve a feeling of openness through the dedication of large open space areas surrounding the residential development areas.
<i>Strategic Framework – Specific outcome 3.7.3.1 (8)</i>	The proposed development complies as it will contribute to the health, wellbeing, scenic amenity and landscape of the community through: a) the preservation of sporting and recreation areas; b) improving the quality of green space and accessibility to green space; and c) provision of dedicated infrastructure that will assist with ecological and hydraulic functions.
<i>Strategic Framework – Specific outcome 3.8.2.1 (2)</i>	This assessment benchmark is not applicable as it is located within an established urban area.
<i>Sport and Recreation Zone Code – Overall outcomes 2(a)iv-v and 2(b)</i>	The proposed development complies as it: a) provides for sport and recreational purposes including ancillary structures, that complement the proposed use of the site as its highest and best use for purpose of residential development to meet the growing City demand;

	b) has a built form which will not impact on the amenity of open space area and aligns to the character expectations of the existing residential neighbourhood; and c) ensures that the lots allocated for sport and recreation use are able to be utilised for a variety of sporting and recreational activities (tennis, basketball, football etc.) To the extent that the residential component of the proposed development does not comply, that non-compliance does not warrant refusal.
<i>Sport and Recreation Zone Code – AO8.1, AO8.2 and PO8</i>	The proposed development complies as it ensures that lots are of a size and configuration to allow for a range of sport activities to occur within the areas which are intended to be used for sport and recreation. To the extent that the residential component of the proposed development does not comply, that non-compliance does not warrant refusal.
<i>General Development Provisions Code – Overall outcome 2(a)</i>	The proposed development complies as it will be of a design that achieves consistency with the adjoining residential neighbourhood, whilst enhancing the open space and landscape amenity outcome for the site. Future development applications will be required to be assessed against this provision as the Arundel Hills Development Code does not seek to vary the application of this code to future development.
<i>General Development Provisions Code – PO2</i>	Future development applications will be required to be assessed against this provision as the Arundel Hills Development Code does not seek to vary the application of this code to future development.
<i>Shaping SEQ – Goal 5 Element 3: Strategy 1</i>	The proposed development maintains and conserves local landscape values through the maintenance of large open space areas (made up of sport and

	recreation areas, open space areas and conservation areas) surrounding the proposed low density residential development.
<i>Shaping SEQ – Goal 5</i> Element 4: Strategy 1 and 2	The proposed development seeks to maintain the land use in part while also providing an opportunity for affordable housing to be implemented in an existing residential area that is located in close proximity to existing infrastructure.

Environmental and Bushfire

Planning Scheme Provision	
<i>Strategic Framework - Strategic Outcomes</i> 3.7.1(1)	The proposed development complies for the reasons outlined below. The proposed development includes a total of 40.96ha of public open space, comprising 3.94ha of district park, 20.49ha of conservation open space and 9.85ha of pocket / linear parks. An additional 6.68ha of private open space is proposed. Since the site currently comprises privately-owned open space and no longer provides a sport and recreation purpose (given its function as a golf course is now defunct), this contributes significantly to Council's public open space and the region's green space network. The proposal results in an improvement and enhancement to matters of environmental significance and implements on-going management and maintenance to these assets that would not otherwise exist where it was maintained in private ownership.
<i>Strategic Framework - Strategic Outcomes</i> 3.7.1(2)	The proposed development complies as the proposed development will maintain the site's ecological processes through the implementation of conservation and open space areas that will be rehabilitated to reflect the

	preclearing regional ecosystems. The overall open space network within the site has been designed to connect to surrounding areas of public open space, including the provision of fauna corridors within and external to the site.
<i>Strategic Framework - Strategic Outcomes</i> 3.7.1(4)	The proposed development complies as matters which are of true environmental significance on the land are proposed to be protected in situ. Impacts are proposed to be offset by the rehabilitation of 22.13ha of vegetation within the site, 15.67ha of which comprises reconstruction of highly degraded areas. Along with this restoration offset, financial offsets are proposed for impacts on Medium Priority Vegetation. To the extent that is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Strategic Framework - Strategic Outcomes</i> 3.7.1(5)	The proposed development complies as matters which are of true environmental significance on the land are proposed to be protected in situ and otherwise disturbance to vegetation of the land is minimised. No High Priority Vegetation will be impacted by the development. Impacts on Regulated Vegetation, Medium Priority Vegetation and General Priority Vegetation have been avoided and minimised to the greatest extent possible, and Significant Residual Impacts (SRI) will be suitably offset. To the extent that is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Strategic Framework - Strategic Outcomes</i> 3.7.1(6)	The proposed development complies with or can be condition to comply with this assessment benchmark as impacts on Medium Priority Vegetation have been avoided and minimised to the greatest extent possible,

	and Significant Residual Impacts (SRI) will be offset in accordance with City Plan requirements.
<i>Strategic Framework - Strategic Outcomes</i> 3.7.1(8)	The proposed development complies as Stormwater basins are proposed within the site in order to manage the quantity and quality of stormwater runoff - refer to the Conceptual Stormwater Management Plan (Burchills 2023).
<i>Strategic Framework – Specific outcomes</i> 3.7.3.1(1)	The proposed development complies with or can be conditioned to comply with the assessment benchmarks as the proposed development contributes to the health, wellbeing, scenic amenity and landscape of the community through: a) the preservation of sporting and recreation areas; and b) improving the quality of green space and accessibility to green space.
<i>Strategic Framework – Specific outcomes</i> 3.7.3.1(2)	The proposed developed development complies as it proposes to link the greenspace network and matters of environmental significance through its design and rehabilitation.
<i>Strategic Framework – Specific outcomes</i> 3.7.3.1(5)	The proposed development complies as the matters outlined in subparagraphs 5(a)-(g) are protected through the maintenance and protection of the waterways and riparian areas which have been identified (by ground truthing exercises) to be of significance.
<i>Strategic Framework – Specific outcomes</i> 3.7.3.1(8)	The proposed development complies with or can be conditioned to comply with the assessment benchmarks as the proposed development contributes to the health, wellbeing, scenic amenity and landscape of the community through: a) the preservation of sporting and recreation areas; and

	b) improving the quality of green space and accessibility to green space.
<i>Strategic Framework – Specific outcomes</i> 3.7.3.1(9)	The proposed development complies as it will remain part of the green space network, and results in consequential improvement and enhancement of the City's open space network through the proposed rehabilitation and on-going maintenance for both areas of conservation and recreation purpose.
<i>Strategic Framework – Specific outcomes</i> 3.7.3.1(10)	The proposed development complies as it facilitates accessible, safe and integrated open space networks that contribute to a sense of place and quality of life by seeking to make existing sport and recreation areas useable and accessible to the community and by providing dedicated conservation areas.
<i>Strategic Framework – Specific Outcomes</i> 3.7.4.1(1)	The proposed development complies as it seeks to conserve, protect, and enhance matters of ecological significance through the dedication and rehabilitation of the conservation area. The proposed development also seeks to enhance protection of regional ecosystems and habitats through the proposed rehabilitation.
<i>Strategic Framework – Specific Outcomes</i> 3.7.4.1(2)	The proposed development complies as the biodiversity areas and matters of ecological significance on the land have been maintained and are otherwise provided to be protected through the rehabilitation of the site and dedication of the conservation area. These impacts are proposed to be offset by the rehabilitation of 22.13ha of vegetation within the site, 15.67ha of which comprises reconstruction of highly degraded areas. Along with this restoration offset, financial offsets are proposed for impacts on Medium Priority Vegetation.
<i>Strategic Framework – Specific Outcomes</i> 3.7.4.1(3)	The proposed development complies for the reasons which are outlined below. The eastern 'leg' of the Hinterland to Coast Critical

	Corridor from Southern Moreton Bay to Clagiraba passes through the eastern lot of the site. This 'leg' is comparatively ancillary to the main, central alignment of the Hinterland to Coast Critical Corridor in this area. This central alignment directly links the Hinterland Core Habitat System of Nerang National Park to the Coastal Wetlands and Islands Core Habitat System of the Coombabah Lakelands Conservation Park. In comparison, the eastern leg of the Hinterland to Coast Critical Corridor within the site does not contain any other identified Biodiversity Areas.
<i>Strategic Framework – Specific Outcomes</i> 3.7.4.1(4)	The proposed development complies as the matters of environmental significance which have been identified by ground-truthing to be of value are proposed to be protected in situ. The entirety of this area, aside from areas proposed to be utilised as sport and recreation in accordance with the site's current zoning, will be rehabilitated. These impacts are proposed to be offset by the rehabilitation of 22.13ha of vegetation within the site, 15.67ha of which comprises reconstruction of highly degraded areas. Along with this restoration offset, financial offsets are proposed for impacts on Medium Priority Vegetation. To the extent that there is found to be any non-compliance the non-compliance is considered not to be determinative or warrant refusal.
<i>Strategic Framework – Specific Outcomes</i> 3.7.4.1(5)	The proposed development complies as: a) no high priority is present; b) buffers to wetlands and waterways (30m) are provided; c) restoration of degraded areas to improve habitat and connectivity is contemplated;

	d) it is designed to minimise impacts of matters of environmental significance; and e) appropriate separation between activities to minimise impacts of environmental significance are contemplated.
<i>Strategic Framework – Specific Outcomes</i> 3.7.4.1(6)	The proposed development complies as it ensures impacts on medium priority vegetation are appropriately managed through either: a) avoiding significant adverse environmental impacts; and b) mitigating significant adverse environmental impacts through rehabilitation and otherwise offsetting any residual impacts through the dedication of the environmental conservation area.
<i>Strategic Framework – Specific Outcomes</i> 3.7.4.1(7)	This provision does not apply as the land is located within an urban area.
<i>Strategic Framework – Coastal wetland and waterway areas element –Specific outcomes</i> 3.7.5.1(1)	The proposed development complies as it seeks to retain and conserve terrestrial aquatic and marine ecosystems.
<i>Strategic Framework – Coastal wetland and waterway areas element –Specific outcomes</i> 3.7.5.1(6)	The proposed development complies or otherwise can be conditioned to comply as appropriate recommendations and outcomes have been proposed to ensure that the water quality and quantity into catchments is maintained in order to support water body health, biodiversity and water-based leisure opportunities.
<i>Strategic Framework – Coastal wetland and waterway areas element –Specific outcomes</i>	The proposed development complies or otherwise can be demonstrated to ensure that the integrity of the catchment area is maintained.

3.7.5.1(7)	
<i>Environmental significance overlay code</i> - Overall outcomes 2(a)	The proposed development complies as matters which are of true environmental significance on the land are proposed to be protected in situ and otherwise disturbance to vegetation of the site is minimised. To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Environmental significance overlay code</i> - Overall outcomes 2(b)	The proposed development complies as degraded matters of environmental significance (which have been identified through ground truthing exercises) are to be protected or rehabilitated. To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Environmental significance overlay code</i> - Overall outcomes 2(d)	The proposed development complies for the reasons which are outlined above.
<i>Environmental significance overlay code</i> - Overall outcomes 2(e)	The proposed development complies for the reasons which are outlined above.
<i>Environmental significance overlay code</i> - Overall outcomes 2(f)	The proposed development complies or can be conditioned to comply to ensure that appropriate buffers between the proposed development and matters of environmental significance are incorporated to manage impacts.
<i>Environmental significance overlay code</i> - Overall outcomes 2(h)	The proposed development complies as on site and financial offsets are proposed. – further detail outlined above.
<i>Environmental significance overlay code</i>	The proposed development complies for the reasons which are outlined below.

- Performance outcome PO1	An Ecological Site Assessment (Burchills 2023a) has been prepared to assess impacts on Matters of Environmental Significance proposed by the development. The proposed development will impact on MSES (Koala habitat, Of Concern Category B, Regulated vegetation, threatened wildlife, Wetlands and watercourses in high ecological value waters) and MLES (MPV, GPV, Regulated vegetation, mapped Waterways and wetlands buffers, individual Koala feed and shelter trees within the Priority Species overlays, both within and outside the City Plan Biodiversity Areas Overlay). During the master planning process, the development was designed to minimise impacts on these matters and the resultant impacts from the final design will be mitigated through the delivery of a combined offset package compliant with the City Plan and Qld Environmental Offsets Act. Potential construction stage impacts are to be avoided, minimised and managed through the implementation of an Environmental Management Plan, conditions of approval, regulatory requirements and best practice construction methods. To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Environmental significance overlay code</i> - Performance outcome PO3	The proposed development complies for the reasons which are outlined below. The development proposes impacts on MSES (e.g. Koala Habitat, Of Concern Category B Vegetation) and MLES (e.g. Medium Priority Vegetation, waterways and wetlands buffers and individual koala feed and shelter trees within the Priority Species overlays) within the Hinterland to Coast Critical Corridor overlay. These impacts are proposed to be offset by the rehabilitation of 22.13ha of vegetation within the site, 15.67ha of which

	comprises reconstruction of highly degraded areas. Along with this restoration offset, financial offsets are proposed for impacts on Medium Priority Vegetation. To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Environmental significance overlay code</i> - Performance outcome PO5	The proposed development complies for the reasons which are outlined below. Minimum 42m buffers are provided between works and ground-truthed wetlands within the site and mapped wetlands external to the site. The majority of these buffer areas will be rehabilitated. Minimum 30m buffers are provided between residential components of the development and ground-truthed wetlands within the site and mapped wetlands external to the site. The majority of these buffer areas will be rehabilitated. Minor watercourses are present throughout the site, which have been modified through historical clearing, maintenance and weed incursions. One (1) in the northwest will be realigned and rehabilitated. To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Environmental significance overlay code</i> - Performance outcome PO9	The proposed development complies for the reasons which are outlined below. The site contains 14,365m² of Medium Priority Vegetation mapped under the City Plan, however site surveys found Vegetation Units B, C and E represented Medium Priority Vegetation with a total area of 7.47ha. A total of 46,6585m² of this Medium Priority Vegetation will be retained, with 24,715m² impacted. A minor area- (421m²) of Impacted Medium Priority Vegetation is within the

	Biodiversity Areas overlay. A combined restoration and financial offset is proposed for these impacts, as detailed in the Ecological Site Assessment (Burchills 2023). To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Environmental significance overlay code</i> - Performance outcome PO10	The proposed development complies for the reasons which are outlined below. The site contains 14,365m² of Medium Priority Vegetation mapped under the City Plan, however site surveys found Vegetation Units B, C and E represented Medium Priority Vegetation with a total area of 7.47ha. A total of 46,6585m² of this Medium Priority Vegetation will be retained, with 24,715m² impacted. A combined restoration and financial offset is proposed for these impacts, as detailed in the Ecological Site Assessment (Burchills 2023). To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.
<i>Environmental significance overlay code</i> - Performance outcome PO11	The proposed development complies for the reasons which are outlined below. The site contains 2.94ha of General Priority Vegetation mapped under the City Plan, however site surveys found Vegetation Unit A represented General Priority Vegetation with a total area of 11.27ha. Impacts on General Priority Vegetation have been avoided and minimised to the greatest extent possible, with 5.61ha proposed to be retained by the development.
<i>Environmental significance overlay code</i> - Performance outcome	This assessment benchmark is not relevant as no Regulated vegetation or High Priority vegetation has

PO12	been observed on the site.
<i>Environmental significance overlay code</i> - Performance outcome PO18	The proposed development complies for the reasons which are outlined below. No State Significant Flora species were observed on-site. A Fauna Management Plan, including Koala Management Plan, will be prepared at Detailed Design/Operational Works stage of the development to ensure that native fauna are not impacted by clearing/construction works. AO18.2 is complied with.
<i>Environmental significance overlay code</i> - Performance outcome PO22	The proposed development complies for the reasons which are outlined below. A Fauna Management Plan will be prepared at Detailed Design/Operational Works stage of the development to ensure that native fauna are not impacted by clearing/construction works.
<i>Bushfire Hazard Overlay Code – Overall outcome 2</i>	The proposed development complies or can be demonstrated to comply that it will not place life, property or environment at an acceptable bushfire risk and otherwise provide for appropriate mitigation – refer to outcomes and recommendations within the Bushfire Management Report.
<i>Bushfire Hazard Overlay Code – Overall outcome 3(a)</i>	The proposed development complies or can be conditioned to comply as the proposed development is located, designed and will be managed in a way which mitigate risks to life and property, but does not occur at the expense of environmental values. To the extent that there is found to be any non-compliance with this provision, the Appellant considers that it is not determinative and does not warrant refusal.

<i>Bushfire Hazard Overlay Code – Overall outcomes 3(b)</i>	The proposed development complies or can be conditioned to comply to ensure that adequate bushfire radiation zones and road layouts are provided in order to ensure that operational requirements for firefighters are met and safe entry and exit for residents will be available for bushfire events.
<i>Bushfire Hazard Overlay Code – Performance outcome PO1</i>	The Appellant considers that it complies with the corresponding acceptable outcome (AO1) as a Bushfire Hazard Assessment Mitigation Plan has been prepared. In the event compliance with AO1 is not made out, the Appellant considers that the proposed development complies, or can be conditioned to comply with, or otherwise demonstrated to ensure that appropriate fire mitigation methods are adequate for the bushfire hazards relevant to the land.
<i>Bushfire Hazard Overlay Code – Performance outcome PO2</i>	The proposed development complies with the corresponding acceptable outcome (AO2).
<i>Bushfire Hazard Overlay Code – Performance outcome PO4</i>	The proposed development complies as the Lot layout has been designed to ensure that it avoids impacts on matters of environmental significance identified in ground truthing exercises.
<i>Bushfire Hazard Overlay Code – Performance outcome PO7</i>	The proposed development complies with the corresponding acceptable outcome (AO7) - refer to the details within the Bushfire Hazard Assessment Mitigation Plan.
<i>ShapingSEQ – Goal 4: Sustain, Element 3, Goal 1</i>	The proposed development will assist in achieving this goal through the provision of housing.

Residential Density and Lot Layout

Planning Scheme Provision	Comment
<i>Strategic Framework - Strategic outcomes</i> 3.3.1(3), (4), (8) and (11)	The proposed development complies with or can be conditioned to comply with the assessment benchmarks for the reasons which are outlined below: 3.3.1(3) Housing form and character – the built form, height and scale of the proposed development is consistent with the function, amenity and current and future character of the area and promotes a sense of community cohesion and wellbeing. 3.3.1(4) Affordability – the proposed development will provide affordable housing (for a variety of community needs) in an established residential area which is close to facilities, services, public transport, employment and essential infrastructure. 3.3.1(8) Active transport and accessibility – the proposed development will result in providing more connectivity in the area through the provision of accessibility through the subject land via pedestrian pathways and road networks. 3.3.1(11) Suburban neighbourhood character – the proposed development maintains the low-density residential character of the area and will contribute to the enhance of the character and amenity of the area by providing for useable and accessible open space for local residents. Further to the above, the development application is for a variation request as such the parameters contained within the Arundel Hills Development code ensure future compliance with these assessment benchmarks relevant to the subsequent proposal at the time.
<i>Strategic Framework – Specific outcomes</i> 3.3.3.1 (1) and (7)	The proposed development complies as it retains the local character of the area by seeking to establish low-density residential housing which is consistent with the

	existing scale, height and intensity of the area and maintaining sport and recreation land which is consistent with the existing character of Arundel Hills. The proposed development will achieve a feeling of openness through the dedication of large open space areas surrounding the residential development areas. As the development is for a variation request the ultimate design of the development is controlled by the Arundel Hills Development Code, which includes parameters to ensure compliance is achieved.
<i>Strategic Framework -</i> Strategic outcome 3.8.1(2)	The proposed development protects the important elements of urban character and community significance by proposing built form which is consistent with the existing residential area and maintaining the open space feel of the area through maintaining large open space areas which will be used for both sport and recreation and conservation, and accessible to the public.
<i>General Development Provisions Code –</i> Overall outcome 2(a)	Future development applications will be required to be assessed against this provision as the Arundel Hills Development Code does not seek to vary the application of this code to future development.
<i>General Development Provisions Code –</i> Performance outcome PO2	Future development applications will be required to be assessed against this provision as the Arundel Hills Development Code does not seek to vary the application of this code to future development.
<i>Reconfiguring a lot code</i> – Overall outcome 2(a)	The proposed development will provide 368 residential lots of varying sizes (average size of 475m²) and frontages that facilitate for different types of development, onsite-parking, public utilities and street trees. These assessment benchmarks and outcomes have been integrated into the Arundel Hills Development Code, that will be the relevant local categorising instrument of the subject land subsequent to this preliminary approval.

<i>Reconfiguring a lot code</i> – Performance outcomes PO15 and PO17	The proposed development can achieve compliance with these provisions as they are required to be assessed as part of future development applications. These assessment benchmarks and outcomes have been integrated into the Arundel Hills Development Code, that will be the relevant local categorising instrument of the subject land subsequent to this preliminary approval.
<i>ShapingSEQ – Goal 1: Element 2, Goal 2 and 3</i>	The proposed development offers an opportunity to provide additional dwellings in Queensland to meet the growing regional demand.
<i>ShapingSEQ – Goal 1: Element 3, Goal 1</i>	The proposed development offers an opportunity to provide dwellings in Queensland to meet the growing regional demand.

Subdivision Design and Pedestrian Network

Planning Scheme Provision	Comment
<i>Strategic Framework - Strategic outcome 3.3.1 (8)</i>	The proposed development complies as it: (a) results in more connectivity in the area through the provision of public accessibility through the subject land via pedestrian pathways and road networks; and (b) prioritises the connectivity and improves the neighbourhood permeability for all people (including pedestrian and cyclists) and motor vehicles.
<i>Strategic Framework – Specific outcome 3.3.3.1 (2)</i>	The proposed development complies as it will implement streets which are characterised by street trees and allow for interconnected thoroughfares for pedestrians, cyclists and slow-moving vehicles.
<i>Strategic Framework –</i>	The proposed development complies with this provision

Specific outcome 3.8.3.1(2)	or can otherwise be conditioned to comply.
<i>General Development Provisions Code</i> – Overall outcome 2(a)	The proposed development complies as it will be of a design that will maintain the existing character of the area. The design of the development is controlled by the Arundel Hills Development Code, which includes parameters within it to ensure the overall low density residential character with high levels of residential amenity and landscape/open space is achieved. Further, future development applications will be required to be assessed against these provisions as the Arundel Hills Development Code does not seek to vary the application of this code to future development.
<i>General Development Provisions Code</i> – Performance outcome PO6	The proposed development can be conditioned to comply with this code. Future development applications will be required to be assessed against this provision as the Arundel Hills Development Code does not seek to vary the application of this code to future development.
<i>Reconfiguring a lot code</i> – Overall outcomes 2(a) and 2(h)	The proposed development complies as it: (a) will provide 368 residential lots of varying sizes (average size of 475m ²) and frontages that facilitate for different types of development, onsite-parking, public utilities and street trees; and (b) contributes to the provision of safe, accessible, convenient, and useable open space for communities by seeking to make existing sport and recreation areas accessible and useable and providing dedicated conservation areas. Refer to applicable benchmarks within the proposed Arundel Hills Development Code that would apply to all subsequent development as the relevant Local

	Categorising Instrument.
<i>Reconfiguring a lot code</i> – Performance outcomes PO15, PO17 and PO23	The proposed development can achieve compliance with these provisions as they are required to be assessed as part of future development applications made under the Arundel Hills Development Code .

Trunk and Non-Trunk Public Open Space

Planning Scheme Provision	
<i>Strategic Framework - Strategic outcomes</i> 3.7.3.1(9) and (10)	The proposed development complies as it: (a) will not erode the green space network, as open space areas as part of the development are proposed and otherwise contributes to the extent, function and value of the green space network; (b) will contribute to the sense of place and quality of life through providing open space with areas that are publicly accessible, safe and integrate with the existing open space networks.
<i>Strategic Framework – Specific outcomes</i> 3.8.5.1 (4) and (5)	The proposed development complies as it will introduce community and public infrastructure that will maximise social and physical accessibility for the community through providing useable sport and recreation areas which will dedicated to Council and local school.
<i>Reconfiguring a lot code</i> – Overall outcome 2(i)	The proposed development complies as it provides community infrastructure in the form of open space areas that can be utilised for a range of non-residential activities which support the local neighbourhood.
<i>Reconfiguring a lot code</i> – Performance outcomes PO21 and PO22	The proposed development complies with these codes as it seeks to dedicate land for public open space. Compliance with these provisions is also reflected in the

	Arundel Hills plan of development.
<i>Reconfiguring a lot code</i> – Acceptable outcomes AO21.1, AO21.2, AO21.3, AO22.1 and AO22.3	The Appellant's position is that it complies with the corresponding performance outcomes for the reasons which are outlined above.

Traffic

Planning Scheme Provision	Comment
<i>Strategic Framework -</i> Strategic outcomes 3.6.1(3), (5) and (7)	The proposed development complies as it: a) supports the existing public transport corridors as it is located within an established urban neighbourhood and seeks to consolidate urban growth within that area; b) provides connections to local attractions which are direct, safe, pleasant walking environments; c) has demonstrated that subject to the recommendations and requirements of the Traffic Impact Assessment being implemented it is able to be accommodated within the existing road network and does not impact its safety or efficiency.
<i>Strategic Framework –</i> Specific outcomes 3.6.4.1(4) and (5)	The proposed development complies as it: a) does not compromise the function of the existing transport facilities and roads; b) is designed to ensure that it achieves a safe and efficient transport system which is able to accommodate the traffic associated with the proposed development.

<i>Transport Code</i> – Overall outcomes 2(b) and (e)	The proposed development achieves an integrated transport system and road network that is demonstrated to comply with these provisions for the reasons which are outlined in the Traffic Impact Assessment Report.
<i>Transport Code</i> – Performance outcome PO20	The proposed development is: 1. appropriately located to reduce the need to travel by car and accessible by public transport, walking and cycling. There is currently a range of pedestrian paths, cul-de-sac and parks which terminate at the Site. The proposed development will priorities the connectivity of the above and improve the neighbourhood permeability for all people and vehicles in the local community. 2. Implements appropriate measures to ensure that the road function and network is not compromised from a safety, operational or amenity perspective.

Built Form

Planning Scheme Provision	
Table 5.5.6: MCU – Sport and recreation zone (where not in a precinct)	The reliance on this as a reason for refusal is unclear as it is not an 'assessment benchmark'.
Table 5.6.1: Reconfiguring a lot	The reliance on this as a reason for refusal is unclear as it is not an 'assessment benchmark'.
Sport and recreation zone code, Overall outcomes 2(a), (b), (c) and (d)	The proposed development complies as it: a) provides for sport and recreational purposes including ancillary structures, while maximising the highest and best use for the site b) has a built form which will not impact on the

	amenity of open space area and existing residential neighbourhood; c) ensures that the lots allocated for sport and recreation use are able to be utilised for a variety of sporting and recreational activities (tennis, basketball, football etc.). To the extent the residential component of the proposed development does not comply, that non-compliance is technical and does not warrant refusal.
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Annexure B
Errors in Council Officer's Report

Appellant's response to the Council's reasons for refusing this application outlined in the Officer's delegate report.

	Council's reasons for refusal	Applicants' response
1	<i>The development and the variations sought to City Plan would result in the loss of Sport and recreation function over the subject site, and a loss of 67.25ha of Sport and recreation land from the City which will adversely impact the health, wellbeing, tourism economy and liveability of the City.</i>	The ground is fundamentally wrong as: ▪ only 26.22ha of the site is being developed, 41.02ha being retained for sport, recreation and open space uses; and ▪ the sport and recreation function will be substantially improved and expanded with a greater offering of recreational activities to much broader part of the community. With regards to the proposal, a total of 61% of the site will be retained for open space and ecological value across three precincts being Sport and Recreation, Conservation and Open Space (Precincts 2-4). Of these three Precincts, Precinct 2 is proposed as 'Sport and Recreation', equating to around 15% of the total site area. Precinct 2 is broken down into 3 lots, being Lots 9013 and 9014 for private recreation (gifted to A.B. Patterson College, but for public use also, and Lot 9010 which is a public recreation park). Whilst this Lot 9010 will be encumbered by the proposed stormwater strategy, it will nonetheless provide a recreation purpose. Furthermore, of the 61% of open space / recreation uses across precincts 2-4, a total of 3.56ha will be dedicated to Council as Open Space (also recreation) within Precinct 4 and 14.24ha dedicated to Council for the purposes of conservation within Precinct 3. Precinct 4 also incorporates a number of linear open space recreation linkages (to be dedicated to Council) on the periphery of the development site, providing kilometres of recreational opportunities for local residents, which did not previously exist for this site. The Sport and Recreation Zone under the City Plan makes reference to 'parks' as an anticipated land use activity and therefore, the proposal retains uses which align with the current zoning over the site.

		The proposed dedication of Lots 9013 and 9014 to A.B. Patterson College aligns with the current City Plan provisions for the site, particularly the Sport and Recreation Zone. This zone allows for active uses, including sporting facilities, similar to those proposed in this precinct. Notably, the intention is to make the land accessible to the public, including outside sporting organisations and the general public. In light of the above, it is considered that the assessment undertaken by Council did not accurately take into account the recreation activities and opportunities proposed over the site, accounting for 61% of the site area, and the critical supply of land for housing, which is a very relevant State interest when determining the overall use of this land.
2	The development and variations sought to the City Plan would result in significant, adverse, and unanticipated amenity and character impacts to the surrounding residential dwellings and Arundel locality.	The response to the grounds for refusal relating to item 1 above have clearly demonstrated that only a small portion of the site (27%) is proposed for housing, and a further 12% for internal roads, all of which are to be located in Precinct 1. This results in a total of 39% of the site proposed for residential (dwellings) and associated purposes (roads / infrastructure etc.). The planned layout of Precinct 1 involves about 26 existing housing lots adjacent to the proposed residential lots. Importantly, the remaining existing lots bordering the new lots are carefully designed with landscaped buffers to preserve amenity and ensure views to greenspace. This outcome prioritises amenity, character, and well-being over maximizing yield, as planned in the early stages of site master planning. It's emphasised that since 61% of the site is allocated for recreation, open space, and conservation, the claim of a 'significant' amenity impact on all residents, including the 16 mentioned lots, is inaccurate. This assertion does not align with the Master Plan submitted for Council assessment. Specifically, the existing lots along Arundel Drive and those around proposed Lots 9014 (Sport and Recreation) and 9019 (Conservation) on the east side of Arundel Drive are not affected by any new urban development that would negatively impact their current amenity or character.

		The site is currently privately owned, and there exists no benefits to the existing residents for lawful access for recreation purposes, despite its current zoning. The land to be dedicated to Council would be freely accessible to the neighbouring residents and the wider Gold Coast community, without legal impediment, at which point the neighbouring residents' "feeling of open space" is secured in perpetuity. The refusal of this application should not have been based on the consideration of the public interest associated with only circa 26 existing lots, whose properties were historically located adjacent to privately owned land. The greater public and State interest (i.e. dwelling supply / affordability, economic benefits, additional and lawful use of public open space / recreation opportunities) is collectively of greater public interest, than an outlook to a privately owned golf course for only 26 lots. Further to the above, preservation of the land for 'open space and recreation' does not protect the circa 26 lots from impact of development in the future as the land could currently be developed to provide for a more intense sport and recreation uses. In conclusion, typical urban redevelopment activities like vegetation clearing and construction are expected to temporarily impact amenity (noise, outlook, etc.). These effects have been addressed in the submitted specialist reports to Council and will be regulated by additional development permits. These unavoidable impacts will be mitigated by the establishment of new tree planting.
3	The development would result in significant environmental impacts, including removal of matters of environmental significance required to be protected in situ.	The application material and the overall Master Plan was supported by a comprehensive Ecological Site Assessment, Koala Habitat Assessment, Rehabilitation Management plan, and a Bushire Assessment, all prepared by Burchills Engineering Solutions. Council's assessment and reasons for refusal for these matters have all but disregarded the outcomes of the above technical reports, prepared by suitably qualified industry professionals. To refute this reason for refusal, the following is noted: Some areas of the site that were historically cleared when the golf course

	was built are proposed to be rehabilitated. Today, there is 13.49 hectares of mapped koala habitat on the site, 7.97 hectares of which will be unaffected by the proposed development. The balance of the mapped habitat will be cleared but the clearing will be offset by rehabilitation of other parts of the site, such that there will be "no net loss of koala habitat". ▪ Regarding matters of environmental significance required to be protected in-situ onsite, the Applicant, by way of responding to the State Assessment Referral Agencies (SARA's) information request, removed all proposed dwellings from within Lot 21, where the majority of impacts to the mapped vegetation (to be protected in-situ) was to occur. ▪ Where any impacts to mapped Matters of State Environmental Significance (MSES) were still proposed, such are proposed to be offset by the rehabilitation of vegetation within the site, of which comprises reconstruction of highly degraded areas. Along with this restoration offset, financial offsets were proposed for impacts on Medium Priority Vegetation. Importantly, SARA, after reviewing the information request response material for the application, issued an approval for this application. Further to the above, consideration of vegetation clearing and koala habitat outcomes should be placed within a broader planning framework. This Development Application strives to harmonize several competing objectives, with a primary focus on supplying essential housing to the local area. In summary, the proposed development will impact on some areas of MSES and MLES, however during the master planning process the development was designed to minimise impacts on these matters. Potential construction stage impacts are to be avoided, minimised and managed through the implementation of an Environmental Management Plan, conditions of approval, regulatory requirements and best practice construction methods. It is therefore considered all matters of environmental significance were appropriately
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		addressed and balanced during the assessment process, and such does not warrant inclusion as a relevant ground for refusal of the application.
4	The proposed residential density, lot layout and character are inconsistent with the established residential character of the area.	Firstly, Council have based this ground of refusal on 380 low density residential lots being proposed; the Applicant has in fact reduced the total number of lots from that originally proposed at 450 lots down to 368 (less 82 lots) by way of responding to Council, and SARA's information request. As such, the assumed residential density for refusing this application was incorrect. The reduction in 82 lots resulted in many benefits to the overall development and the surrounding residents, including Lot 21 now being for the purposes of conservation and recreation alone. As reiterated above, the rehabilitation works proposed will significantly enhance the character and outlook from existing (and proposed) lots, specifically those surrounding the proposed Conservation Precinct. Meaning, the proposed lots will in most instances, not be visible from existing residents on the eastern side of Arundel Drive. The Applicant recognises that the proposed lot sizes are not consistent with the average lot sizes of the existing Arundel neighbourhood (these being in excess of 500-600m²), which is reflective of the lot sizes referenced in the Low Density Residential Zone. Notwithstanding, it is important to consider the historical shift in minimum lot sizes for low density residential neighbourhoods (increased to 600m²), which is a direct consequence to the land supply shortage across the City and rising demand for housing. The development has nonetheless been designed with the intent to deliver an appropriate number of new lots to the city, which has been balanced with the establishment of open space, recreation and conservation areas, and parks to facilitate an appropriate buffer to the majority of surrounding, existing neighbourhoods. The average lot size of 475m² will nonetheless result in a low density, low rise, built form outcome, aligning with the intent of the Low Density Residential Zone. As a final point, the Arundel Hills Development Code, Version 1.2, regulates all future

		development over the site, so far as future dwellings on lots less than 400m ² and all operational works applications (earthworks / change to ground level) would be required to be assessed against the planning scheme in affect at the time, as well as this development code.
5	The development provides a subdivision design and pedestrian network which will result in adverse safety, vehicle access, infrastructure and amenity impacts.	It is considered that this ground for refusal has not adequately considered the information submitted to Council. Amendments to the proposed internal road layout have been made by way of responding to Council's information request, which were supported by a Traffic impact Assessment prepared by Burchills Engineering Solutions, dated 7 October, 2023, and signed by an RPEQ Engineer, as required by Council. Moreover, the design of the internal road network has been designed in accordance with the requirements of the City Plan's Land Development Guidelines, as evidenced on Map 5 – Road Hierarchy Plan prepared by Urbis in the Arundel Hills Development Code, Version 1.2. The internal road design as reflected in the Master Plan ensure verge widths achieve a safe pedestrian environment, with sufficient vehicle / pedestrian separation, relevant to their location within the development footprint. As evidenced in the submission material, including specialist reporting and plans, the proposed residential lots and internal road layout / design would provide high level of residential amenity and pedestrian comfort.
6	The development does not provide for adequate trunk and non-trunk public open space.	It is questioned whether this ground has been based on the expectation that any redevelopment of this site should be dedicated to Council to provide a public recreation use to the community. It is reiterated that the site in its current form, being a privately owned and unused golf course, does not provide any opportunities for lawful, publicly accessible open space areas onsite. Should this site remain in its current state / ownership, no public benefits would be provided for lawful recreation activities to the public. Council have stated the following – <i>"The development and the variations sought to the City Plan do not provide for adequate trunk and non-trunk recreational public open space</i>

		<i>to meet the needs of future proposed residents and the existing community”</i> We contest this statement on the basis that the development includes the following net public benefits with regard to open space areas: ▪ 31% of the site area is proposed as ‘Conservation Precinct’ land within Precinct 4, to be dedicated to Council, which will further enhance the ecological values over the site. ▪ 15% of the site is to be dedicated to Council as trunk Open Space land, within the proposed Open Space precinct. This will afford existing and future residents additional recreation opportunities, that would not otherwise be available, including linear and pocket parks throughout, ensuring all residents have access to high quality Council owned open space land. ▪ 15% of the total site area is proposed to be dedicated to A.B. Patterson College benefitting both staff and students. Importantly, this will also afford sport and recreation opportunities to external sporting and community groups and will be accessible to the public during times not in use by the college, as was clearly outlined in the application material submitted to Council. This provides a clear public sports and recreation benefit, thus addressing the public interest.
7	The development would result in adverse traffic impacts to the City’s road network.	Through the assessment of this development, technical reporting, including a detailed Traffic Impact Assessment (TIA) was prepared in support of this application by Burchills Engineering. The TIA addressed the potential impacts on the Gold Coast Highway / Arundel Drive signalised intersection. The findings of this assessment confirmed that subject to the proposed upgrade to this intersection, the development would result in negligible impacts on the City’s road network. This was further substantiated by the assessment undertaken by the State Government, with emphasis on potential impacts to the Brisbane Road / Arundel Drive intersection in the north. After a thorough assessment, the State in fact supported the development and considered any impacts

		were appropriately identified and mitigated in the submitted TIA. It is evident that the assessment undertaken by Council did not consider the findings of this report, nor the State's position regarding their support for the development in light of the TIA submitted, which were prepared by a suitably qualified RPEQ Traffic Engineer.
8	A residential estate of the form, scale, and intensity proposed is not intended for the subject site.	It is acknowledged that a residential use in any form /density is not intended for the subject site, by virtue of the existing, and outdated zoning. The subject site is currently privately owned land, and occupies an unused, dilapidated golf course which has been historically located in the Sport and Recreation Zone. Such a zoning designation no longer reflects the highest and best use of the site, nor the type of land uses the City requires, which is not more golf courses in lieu of additional housing opportunities. As such, the identified non-compliance with the City Plan assessment benchmarks relating to the land uses, and their form, scale and intensity (density) were identified by the Applicant at the outset of the master planning for the site. The appropriate mechanism under the Planning Act 2016 to vary the planning provisions applying to the site is a Preliminary Approval (including a variation request), which was proposed. It is therefore expected that the subject proposal would not be envisaged for the site as currently mapped. A golf course or any sport and recreation activity of a large scale is considered an underutilisation of constraint free land in close proximity to essential services, community facilities, transport options, and employment opportunities. The highest and best use for this site is a balance of protection of environmental matters, whilst delivering additional affordable housing to the area. The density proposed considered these elements, with lot sizes being appropriate to cater for dwelling placement, whilst balancing the delivery of open space, new school facilities (accessible to the public), high quality landscaping, rehabilitation, and efficient vehicle and pedestrian circulation. The development is largely separated from the surrounding existing / older residential

		neighbourhoods, which cater for traditional low density lot sizes of 600m² or greater. The lot sizes proposed are appropriate to facilitate greater density with negligible impacts to nearby residents. The development proposed is therefore appropriate but was not assessed on its own merit, nor taking into account the relevant mechanism for consideration.
9	There are insufficient relevant matters to substantiate a favourable consideration despite the non-compliances listed above.	From a review of the application material submitted, the relevant matters included within the original Town Planning report were sufficient in the context of the overall public interest and the identified benefits of the project. Importantly, matters such as highest and best use of the site, severe housing and land shortages across the region, and accommodating the expansion of A.B. Patterson College, are both a State and public interest. Throughout the assessment process, additional relevant matters were presented to both Local and State Government authorities, to assist with the delivery of a well-informed decision-making process, which identified the developments alignment, and advancement, of the Planning Act 2016, Planning Regulation 2017, and the applicable strategic documents, being the State Planning Policy and ShapingSEQ regional Plan. It is therefore submitted the relevant matters put forward were not taken into consideration by Council with the outcome of guiding a well-informed, comprehensive and balanced decision-making process for the application.
10	The development and the variations sought to City Plan would not advance the purpose of the Planning Act 2016.	Contrary to Council's position, approval of the proposed development is considered to advance the Purpose of the Act, which is to provide a framework for land use planning and development in the State. That is, the variations proposed seek to vary the effect of the planning provisions over the site to enable efficient use of the land for urban purposes (in part), with the balance of the land to be developed for a mix of open space, recreation, and conservation areas. In light of the development aspects referenced herein, the Act is considered to be advanced in the following ways (pursuant to Section 5):

		▪ The development has considered the short and long term environmental effects arising from the proposal at a local, regional and state level, ensuring sustainable design principles are incorporated; ▪ Following ethical decision-making processes that seek to provide for equity between present and future generations; ▪ The application was publicly notified, allowing the community an opportunity to be involved in the assessment process; ▪ Importantly, the development provides a genuine contribution to housing supply for the region, thus providing further opportunities for housing choice, diversity and affordability; and ▪ The development encourages investment, economic resilience and diversity to the city. The variations sought to the City Plan as part of this variation request are therefore considered more than adequate to advance the purpose of the Act
11	In the public interest, the development and the variations sought should be refused.	We assert that in light of the submitted application material, and the comments provided above, approving the application is in the public interest, despite Council's contrary assessment. The opposing position from the community, largely arising from the immediate residential catchment, have taken precedence over the broader community interest in Council's assessment, which was further fuelled by the level of negative media attention around the development over the course of the assessment. Considering the broader population and public needs, the development contributes to addressing the substantial housing crisis in the city, encompassing affordability in both the rental market and land prices/supply.