RE: Minister's Powers under Section 26 and 27 of the *Planning Act 2016* – Gympie Regional Council

Dear Minister,

It is requested that the Minister enact powers under section 26 and 27 of the *Planning Act 2016* to address the significant risk to adversely impacted State interests in the Gympie Regional Council area that has arisen due to the repealing of Temporary Local Planning Instrument 2 – Protection of biodiversity values, Temporary Local Planning Instrument 02/19 – Southside Structure Plan Area, and all proposed provisions in Amendment Package 3 to the Gympie Regional Council Planning Scheme 2013.

On Wednesday 9th December Gympie Regional Council resolved to repeal Temporary Local Planning Instrument 2 – Protection of biodiversity values, Temporary Local Planning Instrument 02/19 – Southside Structure Plan Area, and all proposed provisions in Amendment Package 3 to the Gympie Regional Council Planning Scheme 2013 (the Planning Scheme) that had been drafted to implement the two Temporary Local Planning Instruments into the Planning Scheme.

The repealing of the two TLPI's, as well as the proposed amendments in Amendment Package 3, poses a significant risk of serious adverse environmental impacts in the Gympie local government area due to the adopted Planning Scheme's lack of environmental regulation and insufficient provisions.

This lack of environmental regulation and insufficient provisions in the Planning Scheme may significantly impact the following State interests set out in the State Planning Policy (SPP) dated July 2017:

- Biodiversity
- Coastal environment
- Water quality.

More specifically, Part E: State interest policies and assessment benchmarks, Biodiversity, page 38 of the SPP, Part E: State interest policies and assessment benchmarks, Coastal environment, page 40 of the SPP, and Part E: State interest policies and assessment benchmarks, Water quality, page 44 of the SPP.

Gympie Regional Council's repealing of the TLPI's and proposed environmental provisions in Amendment Package 3 to the Planning Scheme produces a significant risk to environmental State interests and does not advance the purpose of the *Planning Act 2016*.

<u>Lack of regulation or provisions in the adopted Planning Scheme</u>

The adopted Planning Scheme does not contain an assessment trigger for Operational works for vegetation clearing. The lack of this trigger results in Council being unable to assess the biodiversity impacts of vegetation clearing in any zone across the entire Gympie local government area, and instead relying on State vegetation legislation to assess clearing in the Rural zone. As you would be aware, clearing for urban purposes in an urban zone is a State vegetation clearing exemption and therefore if Council do not require an application for Operational works for vegetation clearing in an urban zone, a property owner would be able to clear their entire lot and Council would not be able to consider the clearing and potential impacts on biodiversity.

This poses a significant risk to Matters of State Environmental Significance (MSES) including koala habitat, Matters of Local Environmental Significance, Wetlands and Waterways, and ecological linkages.

The repealed TLPI's and Amendment Package 3 environmental provisions advanced the State interests through the protection of MSES by ensuring the Planning Scheme regulated Operational Work for vegetation clearing in urban areas where clearing is proposed within a mapped biodiversity area (including MSES areas). This protection is no longer in place.

In short as there is no assessment trigger for Operational works for vegetation clearing in the adopted Planning Scheme, if a landowner wanted to clear an entire lot in an urban zone they could do so without an application to Council allowing them to consider the environmental impacts, and without the requirement for a spotter catcher to be on site nor for pre-clearance surveys to be undertaken. This will result in a significant risk to State interests and also species mortalities.

Waterways and wetlands

The adopted Planning Scheme does not contain Waterways and Wetlands Overlay Mapping. This is considered a shortcoming at present given the importance of waterways and water quality in the Gympie local government area and the fact a significant amount of drinking water is sourced from Gympie region's waterways and tributaries.

In the repealed TLPI's and repealed proposed environmental provisions in Amendment Package 3, waterways and wetlands (stream orders 3 and above) provisions in these instruments aimed to protect aquatic habitat and ecological processes, maintain water quality, and ensure aquatic priority species movement along waterways. However, with the repealing of these instruments, there is now no Wetlands and Waterways mapping for the Gympie local government area. This presents a significant risk to riparian areas along the Mary River and associated tributaries, increasing the risk of reduced water quality and sedimentation. Again, as there is no assessment trigger for Operational works for vegetation clearing in the adopted Planning Scheme, riparian vegetation can be cleared in urban areas without the need for an application to Council, thus producing a significant risk to soil erosion, bank stability, and decreased water quality.

Significant risk to koala habitat

The repealing of these instruments has placed koala habitat at significant risk. Under the *Vegetation Management Act 1999* regulated vegetation fails to protect koala habitat due to the complexity and vast number of existing clearing exemptions in place for urban areas. This significant risk was also identified by the Koala Expert Panel. The Koala Expert Panel identified that the loss of koala habitat is a significant threat to the species, with urban development the primary cause of habitat loss.

It is important to note that the Gympie local government area is located outside of the South East Queensland region and as such it is not represented by the South East Queensland State Planning Policy Koala habitat mapping values. As such, Gympie Regional Council relies on MSES Essential Habitat and MSES regulated Vegetation mapping. This mapping significantly under-represents true koala habitat and does not consider landscape permeability or connectivity.

Field surveys using heat sensing drones and koala scat detection dogs have verified good populations of koalas in both designated residential areas as well as Rural residential areas.

The *Nature Conservation (Koala) Conservation Plan 2017* (Koala Conservation Plan) requirements for a spotter catcher to be present during the clearing of koala habitat trees, does not apply to the Gympie local government area, as it is outside the koala habitat values mapping provided by the State government. These requirements relating to spotter catchers in the Koala Conservation Plan only apply to areas mapped as koala habitat on the koala habitat values mapping on the Department of Environment and Science website.

Furthermore, there are a number of key recommendations from the Koala Expert Panel that, upon review, the TLPI's and proposed environmental amendments in Amendment Package 3 addressed and advanced the recommendations.

Southside Structure Plan Area

Of particular concern is the significant risk to environmental values in the Southside Structure Plan Area. This area has been identified as the future significant growth area for the Gympie local government area and has an environmental corridor identified in Council's endorsed Structure Plan. This area will be a key area subject to development pressure and as the Planning Scheme does not require an application for Operational works for vegetation clearing, the environmental values in this area is at significant risk.

Audit and Risk Management Committee recommendations to Gympie Regional Council
The Council Ordinary meeting minutes from 12th February 2020 state:

> "Audit and Risk Management Committee endorsed recommendations to address the risk to protection of threatened species
> Council's adopted audit program for 2018-2019 included an independent external audit for the *Review of Current Strategies Related to the Protection of Threatened Species*.
>
> The audit concluded that Council's ability to appropriately manage and protect threatened species within the Region was significantly limited by its lack of policy and statutory protection, in particular through its current Planning Scheme. The recommendations from the audit, endorsed by Council's Audit and Risk Management Committee and adopted by Council identified a number of high priority actions for Council's attention."

Misinformation provided to Councillors during Council's Ordinary meeting on 9th December
It was worth briefly mentioning that, upon reviewing Council's live-streamed Ordinary meeting on the 9th December 2020, Councillors were provided with a significant amount of misinformation that may have impacted their decision to repeal the TLPI's and proposed environmental amendments in Amendment Package 3.

We fear this complete misinformation led the Councillors to believe the TLPI's and proposed Planning Scheme amendments were completely flawed and that they had no option but to repeal. This is very concerning.

Section 26 and 27 of the *Planning Act 2016*

The Minister would not have approved both TLPI's if Gympie Regional Council did not demonstrate the significant risk and urgency to environmental State interests, as required under the *Planning Act 2016*. The Minister is applauded for recognising the significant risk and urgency to the environment al State interests which lead to the approval of the making of the TLPI's. However, although the TLPI's have been repealed, the significant risk and urgency still remains and has in fact increased as property owners that are aware of these provisions being repealed may go and clear entire lots of land before the new Planning Scheme that is being drafted is adopted, as a pre-emptive measure.

Accordingly, it is requested that the Minister enact powers under section 26 and 27 of the *Planning Act 2016* to alleviate the significant risk to the adversely impacted State interests and ensure State interests are protected.

For further background information on the TLPI's and proposed environmental provisions in Amendment Package 3, please refer to:

- The supporting and background information previously provided to the Minister by Gympie Regional Council, including results of all Queensland University of Technology drone surveys undertaken, to demonstrate the significant risk and urgent need for the TLPI's and proposed Amendment Package 3 to the Planning Scheme
- Department of Environment and Science letter mentioned by staff in Councils Ordinary meeting on 9th December 2020 that states the environment agency is happy with Council's Biodiversity Overlay mapping to the point where they were considering adopting the mapping to override their State mapping
- Council Ordinary meeting minutes from 12th February 2020, items 5.1 and 5.1
- Council Ordinary meeting minutes from 25th September 2019, item 5.1
- Council Ordinary meeting minutes from 28th August 2019, item 5.2
- Council Ordinary meeting minutes from 24th January 2018, item 5.3
- Council Ordinary meeting minutes from 11th October 2017, item 5.2.

I trust this request will be reviewed and considered as a matter of urgency due to the significant risk to environmental State interests in the Gympie Regional Council area.