

**8.2 R SHEPPARD - RECONFIGURING A LOT - SUBDIVISION (1 INTO 2 LOTS) - LOT 11 ON RP800497 - 141 COBRA ROAD, MAREEBA - RAL/22/0010**

**Date Prepared:** 8 November 2022

**Author:** Senior Planner

**Attachments:**

1. Proposal Plan
2. State Assessment and Referral Agency response dated 4 November 2022

#### APPLICATION DETAILS

APPLICATION		PREMISES	
<b>APPLICANT</b>	R Sheppard	<b>ADDRESS</b>	141 Cobra Road, Mareeba
<b>DATE LODGED</b>	8 July 2022	<b>RPD</b>	Lot 11 on RP800497
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Subdivision (1 into 2 lots)		
<b>FILE NO</b>	RAL/22/0010	<b>AREA</b>	7.44 hectares
<b>LODGED BY</b>	Freshwater Planning	<b>OWNER</b>	R Sheppard
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural Residential zone		
<b>LEVEL OF ASSESSMENT</b>	Impact Assessment		
<b>SUBMISSIONS</b>	Nil		

#### EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is impact assessable and no properly made submissions were received in response to public notification of the application.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant planning instrument.

It is recommended that the application be approved in full with conditions.

#### OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	R Sheppard	<b>ADDRESS</b>	141 Cobra Road, Mareeba
<b>DATE LODGED</b>	8 July 2022	<b>RPD</b>	Lot 11 on RP800497
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Subdivision (1 into 2 lots)		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager’s advice in (D), concurrence agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

And

The assessment manager does not consider that the assessment manager’s decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 lots)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
7963	Proposed RAL - Option 4	-	26/10/2022

(C) ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, and subject to any alterations:
  - found necessary by the Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.
2. Timing of Effect
  - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the endorsement of the plan of survey for the development, except where specified otherwise in these conditions of approval.
3. General
  - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges/contributions within the conditions of approval.
  - 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in

relation to the proposed development or any works required by condition(s) of this approval.

- 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.4 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority, unless approved by Council's delegated officer.
- 3.5 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.6 Where approved existing buildings and structures are to be retained, setbacks to any new property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code.
- 3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

### 3.8 Charges

All outstanding rates, charges, and expenses pertaining to the land are to be paid in full.

### 3.9 Bushfire Management

3.9.1 Any new dwelling erected on proposed Lot 2 must:

- (i) Achieve a setback from hazardous vegetation of 1.5 times the predominant mature canopy tree height or 10 metres, whichever is greater.
- (ii) Include on-site water storage of not less than 5,000 litres, fitted with standard rural fire brigade fitting where necessary, to be provided at the same time the dwelling is constructed.

3.9.2 A Bushfire Hazard Management Plan for proposed Lot 2 must be prepared to the satisfaction of Council's delegated officer. The Bushfire Hazard Management Plan must address, at minimum, Performance Outcomes PO3, PO4 and PO8 of the Bushfire Hazard

Bushfire Hazard Overlay Code. Any future use of Lot 2 must comply with the requirements of the Bushfire Hazard Management Plan at all times.

#### 4. Infrastructure Services and Standards

##### 4.1 Access

4.1.1 An access crossover must be constructed (from the edge of the road pavement of Cobra Road to the property boundary of each allotment) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.1.2 A bitumen sealed driveway shall be provided within access handle of proposed Lot 2. The driveway must:

- (i) have a minimum formation width of 3 metres;
- (ii) be constructed for the full length of the access handle and include an access crossover;
- (iii) be formed with one-way cross fall to cater for stormwater drainage such that any stormwater runoff is contained within the access handle; and
- (iv) include service and utility conduits provided for the full length of the access handle.

##### 4.2 Stormwater Drainage

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- (b) All stormwater drainage collected from the site must be discharged to an approved legal point of discharge.

##### 4.3 Water Supply

At the time of construction of a dwelling on proposed Lot 2, a water supply must be provided via:

- (a) a bore or bores are provided in accordance with the Design Guidelines set out in the Planning Scheme Policy 4 – FNQROC Regional Development Manual; or
- (b) on-site water storage tank/s:
  - (i) with a minimum capacity of 90,000L; and
  - (ii) which are installed and connected prior to the occupation of the dwelling.

#### 4.4 Wastewater Disposal

At the time of construction of a future dwelling or outbuilding on proposed Lot 2, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

#### 4.5 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of power reticulation.

#### 4.6 Telecommunications

The applicant/developer must demonstrate that a connection to the national broadband network is available for each allotment, or alternatively, enter into an agreement with a telecommunication carrier to provide telecommunication services to each lot and arrange provision of necessary conduits and enveloping pipes.

### (D) ASSESSMENT MANAGER'S ADVICE

(a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

(b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(c) Easement Documents

Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Planning Section for more information regarding the drafting of easement documents for Council easements.

(d) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(e) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(f) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- condition regarding bushfire management

(g) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.dcceew.gov.au](http://www.dcceew.gov.au).

(h) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from [www.dsdsatsip.qld.gov.au](http://www.dsdsatsip.qld.gov.au).

(E) REFERRAL AGENCY CONDITIONS

State Assessment and Referral Agency response dated 4 November 2022

(F) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Reconfiguring a Lot – four (4) years (starting the day the approval takes effect).

(G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Access approval arising from condition number 4.1

2. That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

Development Type	Rate	Measure	Charge	Credit Detail	Balance
	<b>\$ per Lot</b> (40% reduction of standard charge for no town water/sewer)	<b>Lots</b>		<b>Lots</b>	
<b>Residential</b>	\$12,156.00	2 Lots	\$24,312.00	1 lot	\$12,156.00
<b>TOTAL CURRENT AMOUNT OF CHARGE</b>					<b>\$12,156.00</b>

**THE SITE**

The subject site is situated at 141 Cobra Road, Mareeba, and is more particularly described as Lot 11 on RP800497. The site is irregular in shape with an area of 7.44 hectares and is zoned Rural Residential under the Mareeba Shire Council Planning Scheme 2016.

The site has approximately 100 metres of frontage to Cobra Road which is constructed to a bitumen sealed rural road standard, without kerb and channel. A single gravel crossover provides access to the site off Cobra Road.

The site is improved by a single dwelling house and multiple outbuildings, all of which are sited in proximity to the Cobra Road frontage.

Cobra Creek traverses the site, dividing it into an eastern and western portion. The western portion containing the built improvements is mostly cleared, whereas the eastern portion is unimproved and mostly vegetated.

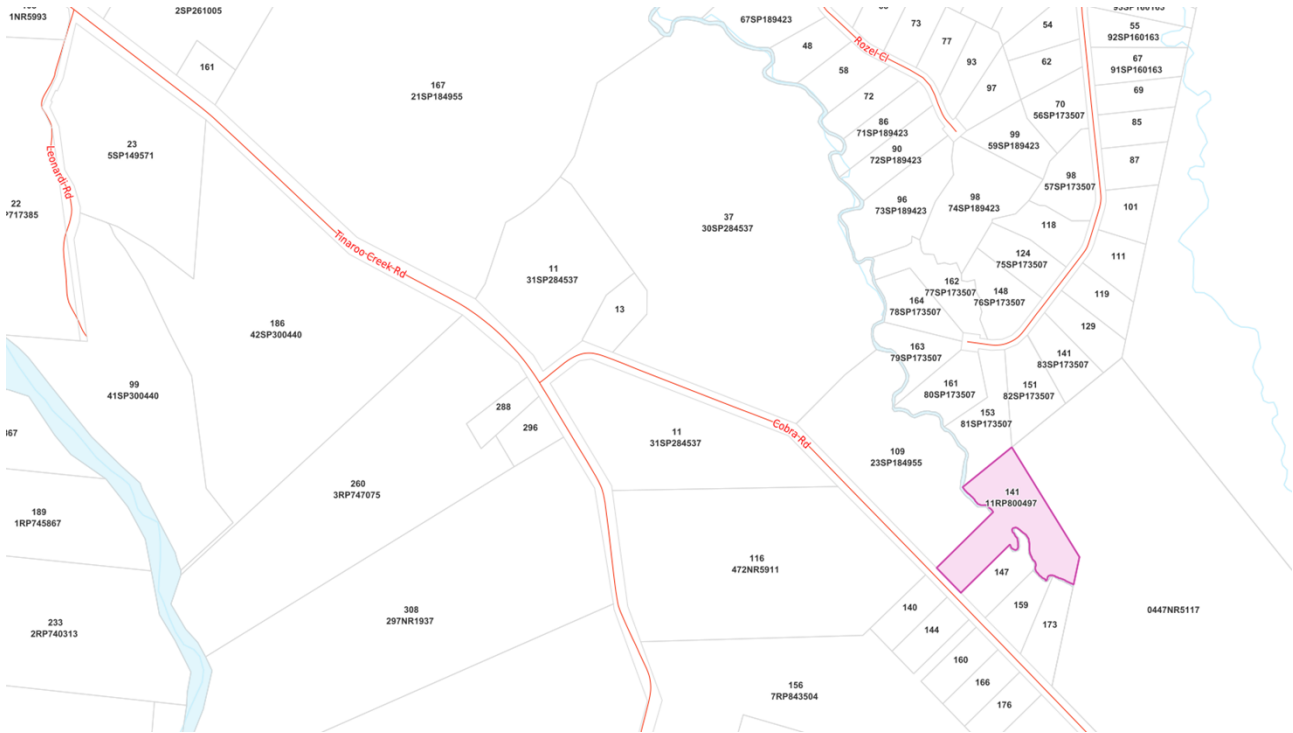
The existing dwelling house is connected to the electricity grid and telecommunication services. An onsite water supply and wastewater disposal system are also connected to the existing dwelling house.

All adjoining lots are zoned a mixture of rural and rural residential.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



**Map Disclaimer:**

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

**BACKGROUND AND CONTEXT**

Nil

**PREVIOUS APPLICATIONS & APPROVALS**

Nil

**DESCRIPTION OF PROPOSED DEVELOPMENT**

The development application seeks a Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 lots) in accordance with the plans shown in **Attachment 1**.

The applicant proposes the subdivision of the subject site into the following allotments:

- Proposed Lot 1 - area of approximately 2.648 hectares, frontage of 92 metres to Cobra Road;
- Proposed Lot 2 - area of approximately 4.792 hectares, frontage of 8 metres to Cobra Road.

Proposed Lot 1 will contain the existing dwelling house and domestic outbuildings. Access to this lot will continue via the established crossover.

Access to proposed Lot 2 will be via an eight (8) metre wide access handle and a new crossover onto Cobra Road. A bitumen sealed driveway will be required for the full length of the access handle.



The existing piped crossing of Cobra Creek will be located within proposed Lot 2.

**REGIONAL PLAN DESIGNATION**

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- ‘Areas of Ecological Significance’ also identifies the site is:

- *State & Regional Conservation Corridors*
- *Terrestrial Area of General Ecological Significance*

**PLANNING SCHEME DESIGNATIONS**

Strategic Framework:	<b>Land Use Categories</b> <ul style="list-style-type: none"> <li>• Rural Residential Area</li> </ul> <b>Natural Environment Elements</b> <ul style="list-style-type: none"> <li>• Biodiversity Areas</li> </ul>
Zone:	Rural Residential zone
Overlays:	Airport Environs Overlay Bushfire Hazard Overlay Environmental Significance Overlay Residential Dwelling House and Outbuilding Overlay Transport Infrastructure Overlay

**RELEVANT PLANNING INSTRUMENTS**

Assessment of the proposed development against the relevant planning instruments is summarised as follows:

**(A) Far North Queensland Regional Plan 2009-2031**

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

**(B) State Planning Policy**

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

**(C) Mareeba Shire Council Planning Scheme 2016**

**Strategic Framework**

*3.3 Settlement pattern and built environment*

*3.3.10 Element—Rural residential areas*

*3.3.10.1 Specific outcomes*

- (1) *Rural residential development is consolidated within rural residential areas where it will not result in the fragmentation or loss of agricultural areas or biodiversity areas.*
- (2) *Infill development within rural residential areas occurs only where appropriate levels of infrastructure are available and provided, the existing rural living character can be maintained and an activity centre is proximate.*
- (3) *No further subdivision of greater than anticipated density occurs within rural residential areas that are not proximate to an activity centre and its attending physical and social infrastructure.*
- (4) *Rural residential areas across Mareeba Shire are characterised by a range of lot sizes, consistent with the form of historical subdivision in the vicinity of proposed development.*

Comment

The subject site is in a rural residential area and does not result in the fragmentation or loss of agricultural land. The biodiversity areas (remnant vegetation) within proposed Lot 2 are secured by way of concurrence agency conditions.

Future development on proposed Lot 2 may only occur within the area of Category X non-remnant vegetation.

The proposed development is infill and does not require additional infrastructure. The development is consistent in character with the existing Emerald Heights and Cobra Road rural residential estates. The locality has convenient access to Mareeba township.

The proposed 2 hectare density is consistent with Emerald Heights Estate, Bellevue Estate and the immediately adjoining Cobra Road rural residential estate.

The proposed development does not conflict with these specific outcomes.

**Relevant Developments Codes**

The following Development Codes are considered to be applicable to the assessment of the application:

- 6.2.10 Rural residential zone code
- 8.2.1 Agricultural land overlay code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcome where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
----------------	----------

Rural residential zone code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>The proposed development is not consistent with Overall Outcomes (g) and (h) contained within the code which seek to discourage the creation of additional lots in Rural residential zoned areas that lie outside a precinct. Despite this non-compliance, the application is considered to comply with the higher order Strategic Framework provisions contained within the Planning Scheme. Further commentary is provided in the Planning Discussion section of the report.</p>
Agricultural land overlay code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>
Airport environs overlay code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>
Bushfire hazard overlay code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>
Environmental significance overlay code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>
Landscaping code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>
Parking and access code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>
Reconfiguring a lot code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code apart from the following:</p> <ul style="list-style-type: none"> <li>• Acceptable Outcome AO1.1</li> <li>• Performance Outcome PO13 (no acceptable outcome)</li> </ul> <p>In the case of AO1.1, it is considered the development can comply with the higher order Performance Outcome PO1. In the case of PO13 and AO13 compliance with the higher order Overall Outcomes of the Reconfiguring a Lot code can be achieved.</p> <p>Further commentary is provided in the planning discussion section of report.</p>

Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
---	---

**(D) Planning Scheme Policies/Infrastructure Charges Plan**

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

**(E) Adopted Infrastructure Charges Notice**

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2022, a standard charge of \$20,260.00 applies to each additional residential allotment created, where serviced by the following five (5) trunk infrastructure networks:

- Transport network (roads);
- Public parks and land for community facilities network;
- Water supply network;
- Sewerage network; and
- Stormwater network

Part 4.1(d) of Council's Adopted Infrastructure Charges Resolution (No. 1) 2022, a 40% discount will be applied to development charges where no connection to Council's reticulated water and sewer network exists.

\$20,260.00 - 40% = \$12,156.00 per additional allotment.

The application proposes the creation of 1 additional residential lot; therefore, the applicable charge is \$12,156.00.

**REFERRAL AGENCY**

The application triggered referral to the State Assessment and Referral Agency as a Concurrence Agency (clearing native vegetation).

The State Assessment and Referral Agency advised in a letter dated 4 November 2022 that they require the conditions to be attached to any approval (**Attachment 2**).

**PUBLIC NOTIFICATION**

The development proposal was placed on public notification from 24 August 2022 to 16 September 2022. The applicant submitted the notice of compliance on 21 September 2022 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

## PLANNING DISCUSSION

Compliance with the Performance Outcomes and Purpose of the Rural Residential Zone Code and the Reconfiguring a Lot Code is summarised as follows:

### Rural Residential Zone Code

*The development generally complies with the Overall Outcomes contained within the Rural Residential zone code apart from the following:*

- (g) Reconfiguring a lot will maintain the predominant lot size of the precinct or intended for the precinct; and*
- (h) Reconfiguring a lot involving the creation of new lots is not undertaken external to a precinct in the Rural residential zone in consideration of the inherent environmental, and/or physical infrastructure and/or social infrastructure constraints of Rural residential zoned land outside of identified precincts.*

### Comment

Despite not complying with overall outcomes (g) and (h), the application is impact assessable and can therefore be assessed against the Planning Scheme's Strategic Framework which is the highest order assessment provisions contained within the Planning Scheme. It is considered that the proposed development achieves compliance with the Strategic Framework provisions relating to settlement pattern and built environment, specifically for rural residential areas. See the Strategic Framework section of this report for further commentary.

### Reconfiguring a Lot Code

#### **PO1 Area and frontage of lots**

*Lots include an area and frontage that:*

- (a) is consistent with the design of lots in the surrounding area;*
- (b) allows the desired amenity of the zone to be achieved;*
- (c) is able to accommodate all buildings, structures and works associated with the intended land use;*
- (d) allow the site to be provided with sufficient access;*
- (e) considers the proximity of the land to:*
  - (i) centres;*
  - (ii) public transport services; and*
  - (iii) open space; and*
- (f) allows for the protection of environmental features; and*
- (g) accommodates site constraints.*

#### **AO1.1**

*Lots provide a minimum area and frontage in accordance with **Table 9.4.4.3B**.*

### Comment

Table 9.4.4.3B does not nominate a minimum area and frontage for rural residential allotments that are located outside a precinct. Assessment is therefore necessary against PO1 and the criteria it nominates:

- (a) The proposed lots are consistent with the design/size of adjoining on Cobra Road and also the adjoining Emerald Heights Estate.
- (b) The proposed lots allow the desired amenity of the zone to be achieved.
- (c) Each of the proposed lots is of sufficient size and shape to be able to accommodate all buildings, structures and works associated with the intended future residential land use.
- (d) Cobra Road is constructed to a bitumen sealed rural road standard sufficient to provide each proposed lot with good access. Individual access crossovers will be conditioned in accordance with FNQROC Development Manual standards.
- (e) The subject land is within a major existing rural residential node. The site is within reasonable proximity to Mareeba township and the services it offers. Due to their size, both lots offer significant onsite open space opportunities. Further open space opportunities area available at Emerald Falls National Park which is accessed via Cobra Road.
- (f) Proposed Lot 1 is already developed. The State referral agency response restricts future development on proposed Lot 2 to an area of non-remnant native vegetation (north-western corner).
- (g) Both proposed lots reasonably accommodate all constraints.

The development complies with PO1.

### ***PO13 Rural residential zone***

*New lots are only created in the Rural residential zone where land is located within the 4,000m<sup>2</sup> precinct, the 1 hectare precinct or the 2 hectare precinct.*

### ***A013***

*No acceptable outcome is provided.*

### Comment

The proposed development conflicts with PO13 as the subject land is not located within a rural residential zone precinct.

An assessment of the development's consistency with the higher order purpose and overall outcomes contained within the Reconfiguring a Lot Code is therefore required and is discussed below:

*The purpose of the Reconfiguring a Lot code will be achieved through the following overall outcomes:*

- (a) *Subdivision of land achieves the efficient use of land and the efficient provision of infrastructure and transport services;*

The site is already serviced by all infrastructure typically conditioned for rural residential lots of 2 hectares in size. Each proposed lot will be adequately serviced with a connection to the electricity grid, access and modern telecommunications via the NBN fixed wireless network.

Water supply and wastewater disposal will be achieved on-site which is standard practice for 2 hectare rural residential allotments.

- (b) *Lots are of a suitable size and shape for the intended or potential use having regard to the purpose and overall outcomes of the relevant zone or precinct;*

Both proposed lots are of a suitable size and shape to accommodate the established and anticipated future rural residential land uses. The size of both proposed lots remains consistent with the adjoining 2 hectare rural residential precinct (Emerald Heights Estate).

- (c) *Subdivision of land creates lots with sufficient area and dimensions to accommodate the ultimate use, meet user requirements, protect environmental features and account for site constraints;*

Proposed Lot 1 will accommodate the existing dwelling house and multiple domestic outbuildings.

The likely use of proposed Lot 2 is a single dwelling house with the potential for some ancillary domestic outbuildings. Proposed Lot 2 contains approximately 1 hectare of Category X area suitable for the siting of all future built improvements. Remnant vegetation over the balance of proposed Lot 2 is protected.

- (d) *A range and mix of lot sizes is provided to facilitate a variety of industry and housing types;*

The proposed development would add to the range of lot sizes available in the locality.

- (e) *Subdivision design incorporates a road network that provides connectivity and circulation for vehicles and provide safe and efficient access for pedestrians, cyclists and public transport;*

Not applicable. The proposed development does not require an extension to the road network.

- (f) *Subdivision design provides opportunities for walking and cycling for recreation and as alternative methods of travel;*

Walking and cycling opportunities are available along the existing network of road reserves. Further walking and cycling opportunities are available within the nearby Emerald Falls and Davies Creek National Parks.

- (g) *Subdivision of land provides and integrates a range of functional parkland, including local and district parks and open space links for the use and enjoyment of the residents of the locality and the shire;*

Not relevant for rural residential lots of this size. Each proposed lot has generous onsite areas for recreation and open space use. The locality also features multiple National Parks (including walking and mountain bike tracks).

- (h) *Subdivision of land contributes to an open space network that achieves connectivity along riparian corridors and between areas with conservation values;*

Not applicable for a small scale 1 into 2 lot development. The areas of remnant vegetation are secured by the development, including the riparian corridor along Cobra Creek. Proposed Lot 2 will be accessed using an established creek crossing.

- (i) *Subdivision within the Rural zone maintains rural landholdings in viable parcels;*

Not applicable. The subject land is within the Rural Residential zone, not the Rural zone.

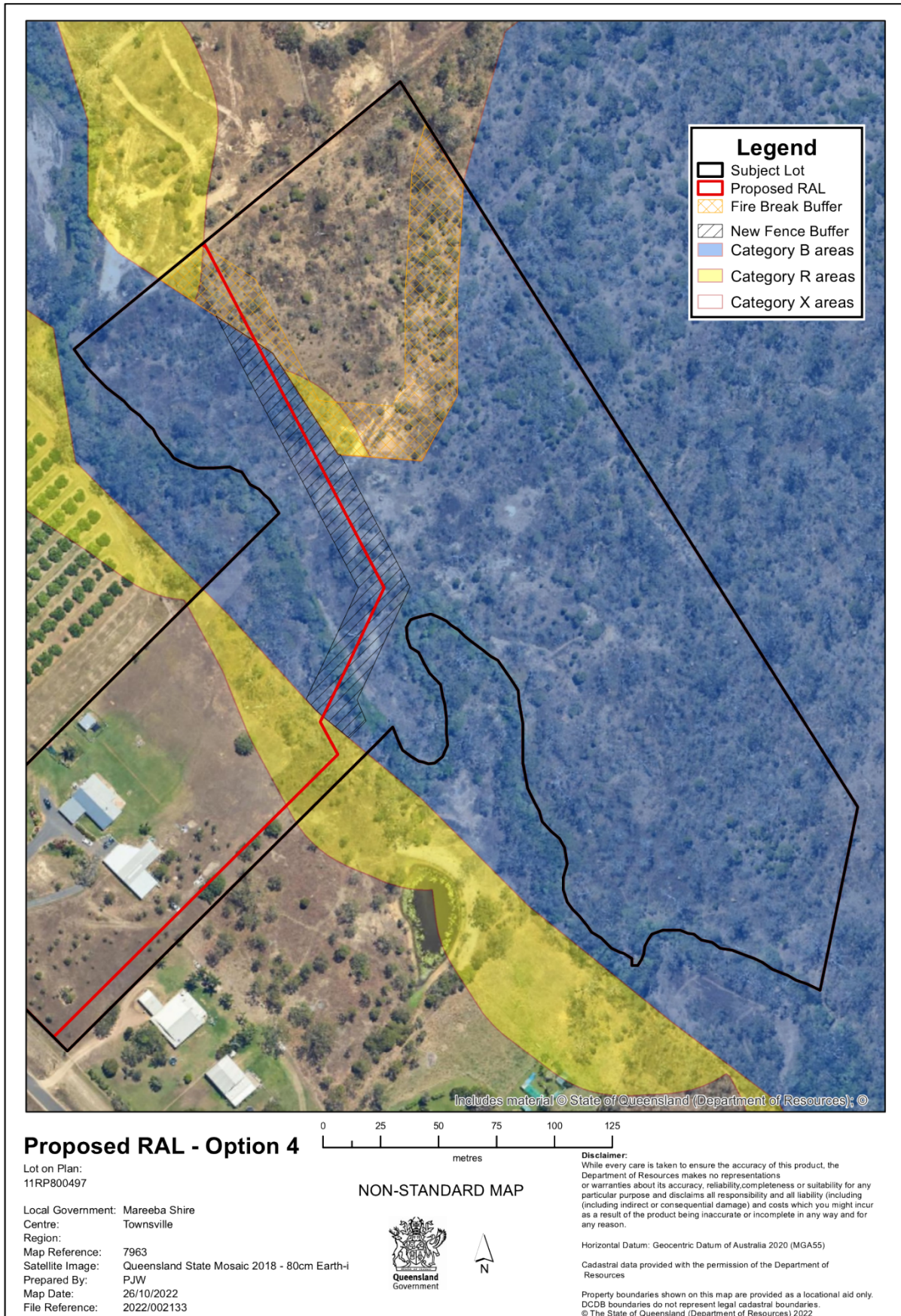
- (j) *Land in historical townships is not reconfigured to be used for urban purposes; and*

Not applicable. The subject land is not within a historical township for the purpose of the planning scheme.

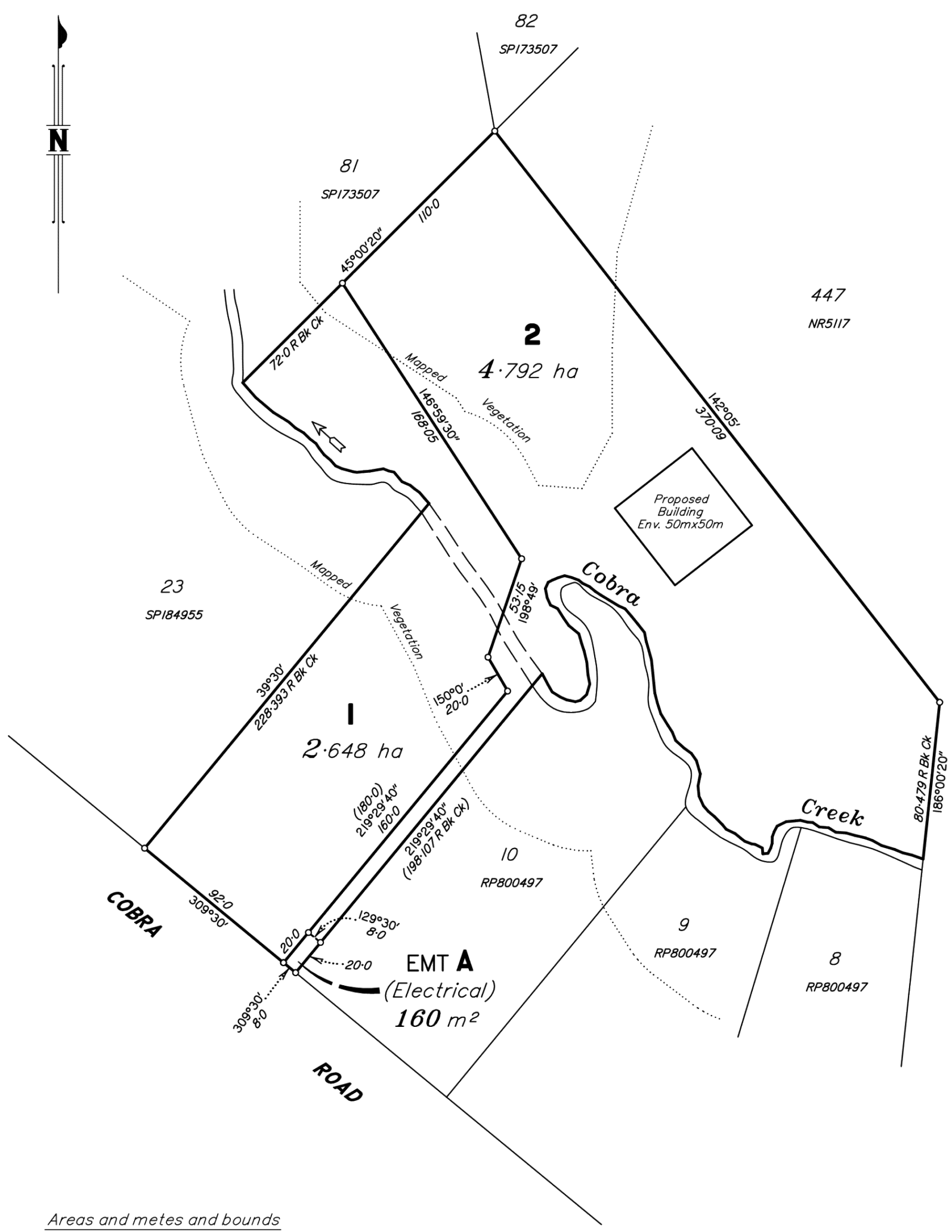
- (k) *Residential subdivision and greenfield development is designed to consider and respect:*
- i. topography;*
  - ii. climate responsive design and solar orientation;*
  - iii. efficient and sustainable infrastructure provision;*
  - iv. environmental values;*
  - v. water sensitive urban design;*
  - vi. good quality agricultural land; and*
  - vii. the character and scale of surrounding development.*

The proposed lot layout appropriately and efficiently responds to the relevant identified criteria.





CVT



*Areas and metes and bounds are subject to final survey.*

0 100m 200m 300m

LOCAL GOVERNMENT: MSC  
 LOCALITY: Mareeba  
 Scale 1: 2000  
 Reference: 9082 – Rev B  
 Lot Layout – 10.05.2022

**DEVELOPMENT PLAN**  
 Plan of Lots **1 & 2**  
 and Easement **A** in Lot **2**  
 Cancelling Lot **11** on RP800497



TWINE SURVEYS PTY LTD  
 36 Mabel Street, Atherton QLD 4883  
 PO Box 146, Atherton QLD 4883  
 P: 07 4091 1303  
 E: info@twinesurveys.com.au

RA6-N



SARA reference: 2207-30021 SRA  
 Council reference: RAL/22/0010  
 Applicant reference: F22/12

4 November 2022

Chief Executive Officer  
 Mareeba Shire Council  
 PO Box 154  
 Mareeba QLD 4880  
 planning@msc.qld.gov.au

Attention: Mr Brian Millard

Dear Sir/Madam

## SARA response—141 Cobra Road, Mareeba

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 25 July 2022.

### Response

Outcome:	Referral agency response – with conditions
Date of response:	4 November 2022
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

Description:	Development permit    Reconfiguring a lot (one lot into two lots)
SARA role:	Referral agency
SARA trigger:	Schedule 10, Part 3, Division 4, Table 2 – Clearing native vegetation (Planning Regulation 2017)
SARA reference:	2207-30021 SRA
Assessment manager:	Mareeba Shire Council
Street address:	141 Cobra Road, Mareeba
Real property description:	Lot 11 on RP800497

Far North Queensland regional office  
 Ground Floor, Cnr Grafton and Hartley  
 Street, Cairns  
 PO Box 2358, Cairns QLD 4870

2207-30021 SRA

Applicant name: Russell William Sheppard  
Applicant contact details: C/- Freshwater Planning Pty Ltd  
17 Barron View Drive  
Freshwater QLD 4870  
freshwaterplanning@outlook.com

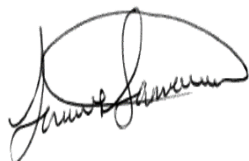
## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Belinda Jones, Principal Planning Officer, on 4037 3208 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes  
A/Manager (Planning)

cc Russell William Sheppard C/- Freshwater Planning Pty Ltd, freshwaterplanning@outlook.com

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions  
Attachment 5 - Approved plans and specifications

2207-30021 SRA

### Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
<b>Reconfiguring a lot</b>		
Schedule 10, Part 3, Division 4, Table 2 – Clearing native vegetation —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Resources to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Clearing of vegetation must: (a) only occur within Area A(A1) as shown on the attached: (i) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2207-30021 SRA, Sheet 1 of 1, version 1, dated 4 November 2022; and (ii) Attachment to Vegetation Management Plan VMP 2207-30021 SRA Derived Reference Points for GPS.  (b) not exceed 0.35 hectares.	At all times
2.	Clearing of vegetation must not occur within the area(s) identified as Area B(B1) as shown on the attached: (a) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2207-30021 SRA, Sheet 1 of 1, version 1, dated 4 November 2022; and (b) Attachment to Vegetation Management Plan VMP 2207-30021 SRA Derived Reference Points for GPS.  Note: This condition is not applicable where clearing of vegetation is an exempt clearing activity for essential management items (a), (b), (c), (d) and (e), under Schedule 21 of the Planning Regulation 2017.	At all times
3.	Built infrastructure, other than for fences, roads, underground services as relevant, must not be established, constructed or located within Area C(C1) as shown on the attached: (a) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2207-30021 SRA, Sheet 1 of 1, version 1, dated 4 November 2022; and (b) Attachment to Vegetation Management Plan VMP 2207-30021 SRA Derived Reference Points for GPS.  Note: Schedule 21 of the Planning Regulation 2017 provides where exempt clearing work can occur.	At all times
4.	Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval, and must be made aware of the full extent of clearing authorised by this development approval.	Prior to clearing

2207-30021 SRA

**Attachment 2—Advice to the applicant**

<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.
2.	The site contains a mapped waterway (Cobra Creek) and any works within this waterway may require approval for waterway barrier works.

2207-30021 SRA

### **Attachment 3—Reasons for referral agency response**

(Given under section 56(7) of the *Planning Act 2016*)

#### **The reasons for SARA's decision are:**

- The proposed development layout reasonably avoids impacts on regulated vegetation and where avoidance is not possible the impacts have been reasonably minimised.
- The impact of the development on connectivity, loss of biodiversity and the ecosystem function is considered minimal.
- Sufficient vegetation will be retained in the landscape to maintain ecological processes.
- The site does not include endangered vegetation, of concern vegetation or essential habitat.
- SARA has carried out an assessment of the development application against State code 16: Native vegetation clearing and has found that with conditions, the proposed development complies with relevant performance outcomes.

#### **Material used in the assessment of the application:**

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The State Development Assessment Provisions (version 3.0)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

2207-30021 SRA

## **Attachment 4—Representation provisions**

---

(page left intentionally blank – attached separately)



2207-30021 SRA

**Attachment 5—Approved plans and specifications**

---

(page left intentionally blank – attached separately)

## Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

### Part 6: Changes to the application and referral agency responses

---

#### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

---

<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

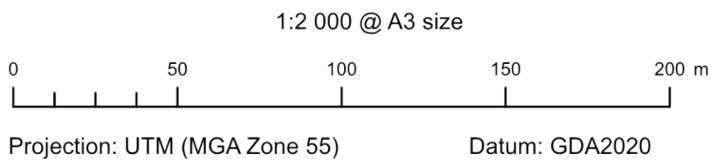
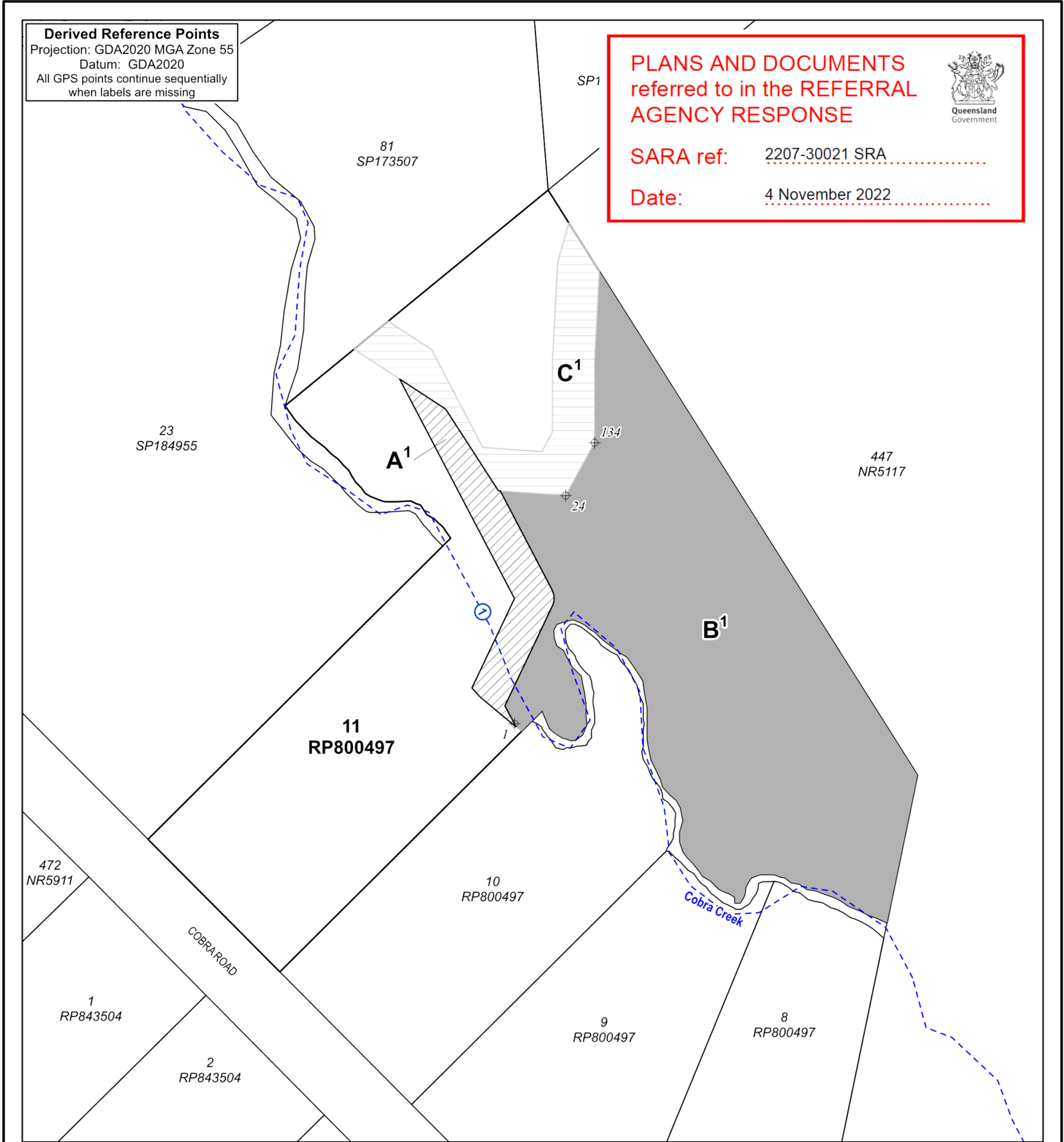
## Part 7: Miscellaneous

### 30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

---

<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.




Notes: Derived Reference Points are provided to assist in the location of area boundaries. Responsibility for locating these boundaries lies solely with the landholder.  
 Watercourse and drainage feature locations shown on the Vegetation Management Plan are derived from the certified Vegetation Management Watercourse and Drainage Feature Map. These alignments are approximate only and require ground truthing to identify the exact location of the watercourse or drainage feature.  
 The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.

**This plan must be read in conjunction with conditions attached to 2207-30021 SRA**

<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li> Derived Reference Start Points (see attachment)</li> <li> Subject Lot(s)</li> <li> Area A - Clearing permitted</li> <li> Area B - Clearing must not occur</li> <li> Area C - Firebreak/safety buffer (only certain infrastructure permitted)</li> <li> Watercourse and/or drainage feature (Stream order label)</li> </ul> <p>Note: This is a colour plan and should only be reproduced in colour</p>		<p style="text-align: center;"><b>Vegetation Management Plan</b></p> <p style="text-align: center;"><b>Plan of Area A (Part A<sup>1</sup>), Area B (Part B<sup>1</sup>), Area C (Part C<sup>1</sup>) in Lot 11 on Plan RP800497</b></p> <p>Version: 1   eLVAS Case ID: 2022/002133</p>	<p style="text-align: center;"><b>VMP</b> <b>2207-30021 SRA</b> Sheet 1 of 1</p> <p style="text-align: center;">Prepared by: SAK (VMGIS-NR-1162)</p>
--	--	--	--

**Attachment to Plan: 2207-30021 SRA  
Derived Reference Points  
Datum: GDA2020, Projection: MGA Zone 55**

**PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE**



SARA ref: 2207-30021 SRA

Date: 4 November 2022

**Notes:** Derived Reference Points are provided to assist in the location of area boundaries.  
Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).  
Coordinates start at a point indicated on the accompanying plan and proceed in a clockwise direction.

Part ID	Unique ID	Easting	Northing
A1	1	338635	8117239
A1	2	338635	8117238
A1	3	338619	8117251
A1	4	338616	8117254
A1	5	338612	8117258
A1	6	338635	8117306
A1	7	338603	8117366
A1	8	338573	8117424
A1	9	338590	8117413
A1	10	338598	8117408
A1	11	338602	8117401
A1	12	338626	8117364
A1	13	338627	8117364
A1	14	338653	8117314
A1	15	338655	8117311
A1	16	338655	8117310
A1	17	338656	8117308
A1	18	338656	8117307
A1	19	338656	8117305
A1	20	338655	8117304
A1	21	338655	8117302
A1	22	338629	8117249
A1	23	338635	8117239
B1	24	338662	8117361
B1	25	338677	8117390
B1	26	338677	8117433
B1	27	338680	8117481
B1	28	338850	8117212
B1	29	338834	8117133
B1	30	338828	8117135
B1	31	338824	8117137
B1	32	338820	8117139
B1	33	338813	8117142
B1	34	338809	8117145
B1	35	338806	8117147
B1	36	338800	8117148
B1	37	338796	8117150
B1	38	338791	8117151
B1	39	338787	8117154
B1	40	338783	8117154
B1	41	338779	8117157
B1	42	338777	8117157
B1	43	338773	8117159
B1	44	338771	8117159
B1	45	338766	8117159
B1	46	338761	8117157
B1	47	338760	8117154
B1	48	338758	8117152
B1	49	338758	8117148
B1	50	338757	8117146
B1	51	338755	8117144
B1	52	338753	8117144
B1	53	338753	8117147
B1	54	338749	8117149
B1	55	338747	8117149
B1	56	338744	8117151
B1	57	338742	8117153
B1	58	338740	8117155
B1	59	338735	8117158
B1	60	338733	8117160

Part ID	Unique ID	Easting	Northing
B1	61	338730	8117165
B1	62	338727	8117168
B1	63	338725	8117171
B1	64	338723	8117176
B1	65	338723	8117181
B1	66	338725	8117187
B1	67	338723	8117194
B1	68	338721	8117198
B1	69	338718	8117201
B1	70	338714	8117206
B1	71	338713	8117210
B1	72	338711	8117213
B1	73	338708	8117220
B1	74	338707	8117226
B1	75	338706	8117231
B1	76	338706	8117236
B1	77	338706	8117241
B1	78	338706	8117248
B1	79	338705	8117253
B1	80	338704	8117257
B1	81	338704	8117262
B1	82	338700	8117267
B1	83	338698	8117271
B1	84	338695	8117275
B1	85	338692	8117277
B1	86	338688	8117279
B1	87	338683	8117283
B1	88	338681	8117286
B1	89	338678	8117288
B1	90	338674	8117290
B1	91	338673	8117292
B1	92	338669	8117294
B1	93	338666	8117295
B1	94	338662	8117294
B1	95	338659	8117293
B1	96	338657	8117293
B1	97	338655	8117289
B1	98	338656	8117285
B1	99	338657	8117281
B1	100	338661	8117279
B1	101	338663	8117273
B1	102	338665	8117270
B1	103	338670	8117265
B1	104	338671	8117260
B1	105	338672	8117256
B1	106	338673	8117250
B1	107	338673	8117243
B1	108	338673	8117239
B1	109	338671	8117233
B1	110	338667	8117231
B1	111	338665	8117230
B1	112	338662	8117231
B1	113	338661	8117232
B1	114	338658	8117233
B1	115	338654	8117236
B1	116	338652	8117240
B1	117	338649	8117246
B1	118	338638	8117235
B1	119	338635	8117238
B1	120	338635	8117239

Part ID	Unique ID	Easting	Northing
B1	121	338629	8117249
B1	122	338629	8117249
B1	123	338653	8117298
B1	124	338655	8117302
B1	125	338655	8117304
B1	126	338656	8117305
B1	127	338656	8117307
B1	128	338656	8117308
B1	129	338655	8117310
B1	130	338655	8117311
B1	131	338653	8117314
B1	132	338627	8117364
B1	133	338662	8117361
C1	134	338677	8117390
C1	135	338662	8117361
C1	136	338640	8117363
C1	137	338627	8117364
C1	138	338626	8117364
C1	139	338602	8117401
C1	140	338598	8117408
C1	141	338590	8117413
C1	142	338573	8117424
C1	143	338564	8117430
C1	144	338549	8117440
C1	145	338567	8117455
C1	146	338569	8117453
C1	147	338590	8117439
C1	148	338618	8117387
C1	149	338629	8117386
C1	150	338649	8117385
C1	151	338655	8117395
C1	152	338655	8117434
C1	153	338658	8117486
C1	154	338664	8117507
C1	155	338675	8117490
C1	156	338680	8117481
C1	157	338677	8117433
C1	158	338677	8117390