



15 December 2022

Russell W Sheppard
C/- Freshwater Planning Pty Ltd
17 Barronview Drive
FRESHWATER QLD 4870

Senior Planner: Brian Millard

Direct Phone: 4086 4657

Our Reference: RAL/22/0010

Your Reference: F22/12

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 14 December 2022, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

| | |
|----------------------------|--|
| Application No: | RAL/22/0010 |
| Street Address: | 141 Cobra Road, Mareeba |
| Real Property Description: | Lot 11 on RP800497 |
| Planning Scheme: | Mareeba Shire Council Planning Scheme 2016 |

DECISION DETAILS

| | |
|-------------------|--|
| Type of Decision: | Approval |
| Type of Approval: | Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 Lots) |
| Date of Decision: | 14 December 2022 |

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is four (4) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “*necessary infrastructure condition*” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS

(A) 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.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

| Table 2 - Reconfiguring a lot that is assessable development under s 21 | | |
|---|--|--|
| Development application for reconfiguring a lot that is assessable development under section 21, if- | Schedule 10, Part 3, Division 4, Table 2 | Department of State Development, Infrastructure, Local Government and Planning - State Assessment & Referral Agency (SARA) PO Box 2358 Cairns QLD 4870 CairnsSARA@dsdmip.qld.gov.au |
| (a) a lot that the application relates to is 5ha or larger; and | | |
| (b) the size of any lot created is 25ha or less; and | | |
| (c) either- | | |
| (i) the reconfiguration involves operational work that is assessable development under section 5, other than operational work that is only the clearing of regulated regrowth vegetation; | | |
| or | | |

| | | |
|--|--|--|
| (ii) on any lot created, accepted operational work, other than operational work that is only the clearing of regulated regrowth vegetation, may be carried out | | |
|--|--|--|

A copy of any referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

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

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(A) 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.

(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.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

SUBMISSIONS

There were no properly made submissions about the application.

RIGHTS OF APPEAL

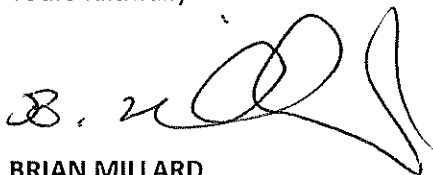
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

OTHER DETAILS

If you wish to obtain more information about Council's decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

Yours faithfully

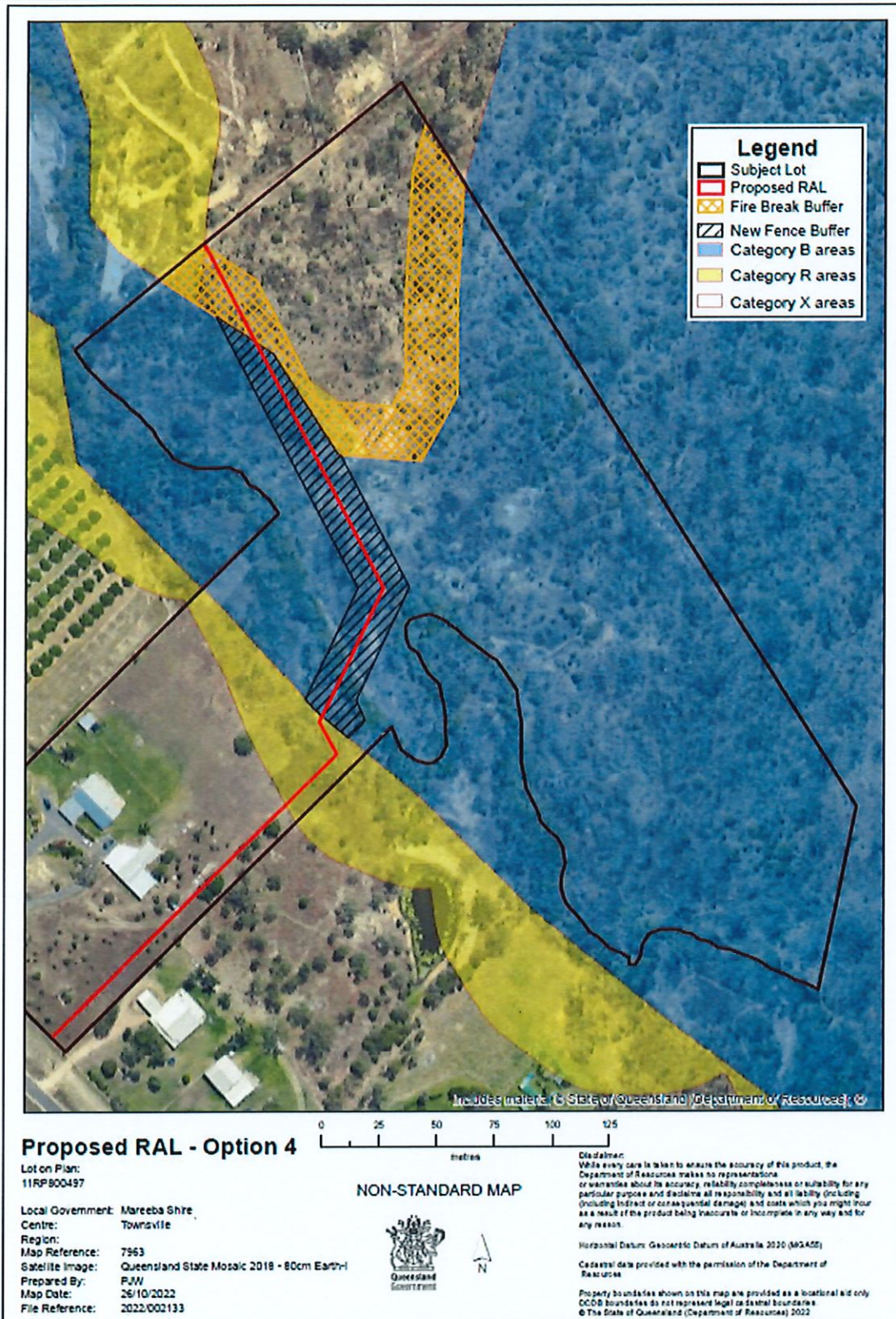


BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights
Adopted Infrastructure Charge Notice

Copy: Department of State Development, Manufacturing, Infrastructure and Planning
CairnsSARA@dsmip.qld.gov.au

Approved Plans/Documents



15/12/2022
B. M. [Signature]

Referral Agency Response

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 58 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 Attachment 1 must be attached to any development approval |
| Advice: | Advice to the applicant is in Attachment 2 |
| Reasons: | The reasons for the referral agency response are in Attachment 3 |

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

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

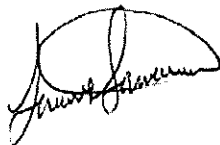
Representations

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@dsdipg.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 58(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 |
|---|---|-------------------|
| Reconfiguring a lot | | |
| 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. | <p>Clearing of vegetation must:</p> <p>(a) only occur within Area A(A1) as shown on the attached:</p> <p>(i) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2207-30021 SRA, Sheet 1 of 1, version 1, dated 4 November 2022; and</p> <p>(ii) Attachment to Vegetation Management Plan VMP 2207-30021 SRA Derived Reference Points for GPS.</p> <p>(b) not exceed 0.35 hectares.</p> | At all times |
| 2. | <p>Clearing of vegetation must not occur within the area(s) identified as Area B(B1) as shown on the attached:</p> <p>(a) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2207-30021 SRA, Sheet 1 of 1, version 1, dated 4 November 2022; and</p> <p>(b) Attachment to Vegetation Management Plan VMP 2207-30021 SRA Derived Reference Points for GPS.</p> <p>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.</p> | At all times |
| 3. | <p>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:</p> <p>(a) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2207-30021 SRA, Sheet 1 of 1, version 1, dated 4 November 2022; and</p> <p>(b) Attachment to Vegetation Management Plan VMP 2207-30021 SRA Derived Reference Points for GPS.</p> <p>Note: Schedule 21 of the Planning Regulation 2017 provides where exempt clearing work can occur.</p> | 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 |

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Attachment 2—Advice to the applicant

| General advice | |
|----------------|---|
| 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. |

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Attachment 3—Reasons for referral agency response*(Given under section 58(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*

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Attachment 4—Representation provisions

(page left intentionally blank – attached separately)

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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 Rules¹ 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.²
- 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.

¹ Pursuant to Section 68 of the *Planning Act 2016*

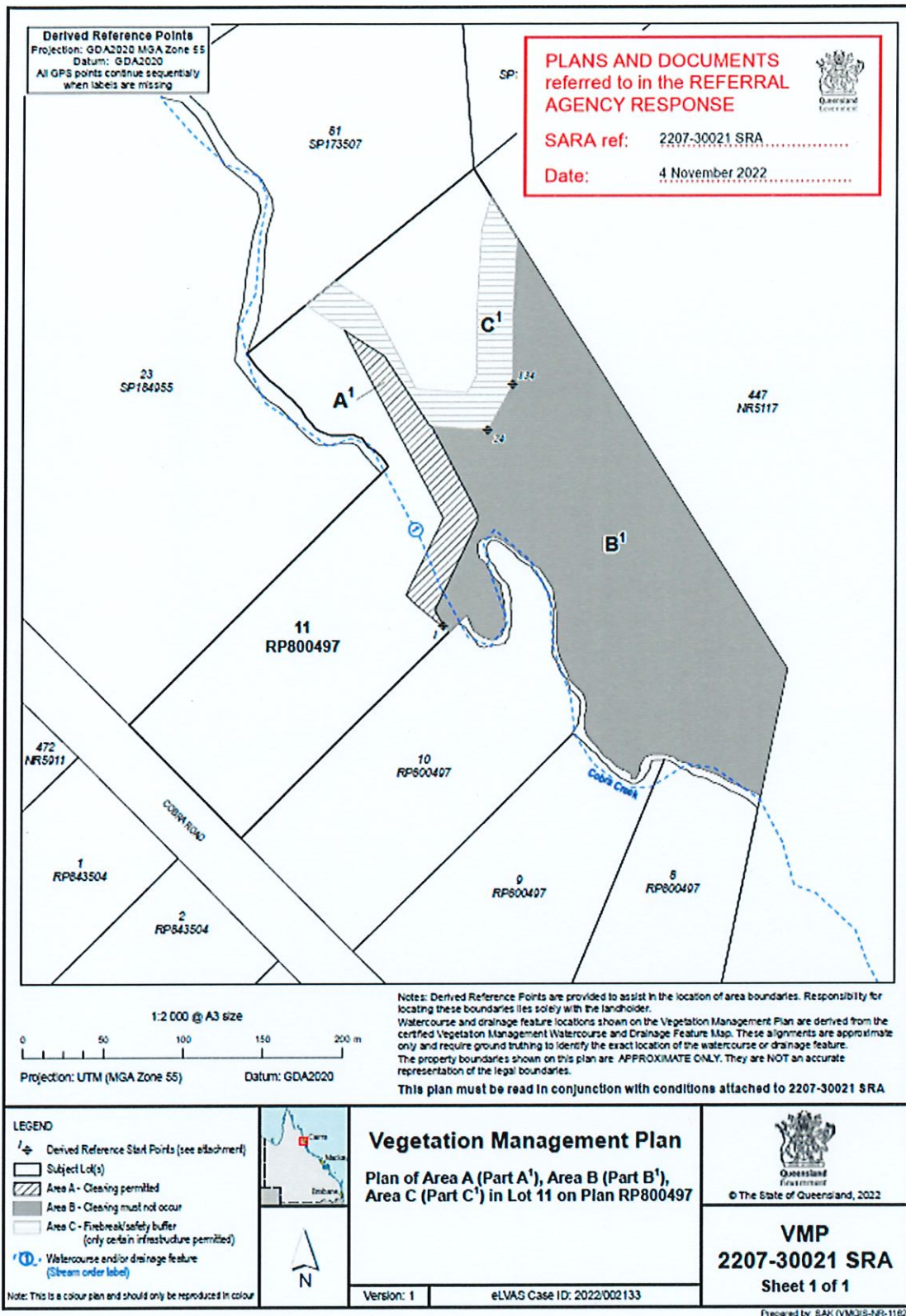
² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

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.³

³ 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.



**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 contractors.
Coordinates listed at a point indicated on the accompanying plan and proceed in a clockwise direction.

| Part ID | Unique ID | Easting | Northing | Part ID | Unique ID | Easting | Northing | Part ID | Unique ID | Easting | Northing |
|---------|-----------|---------|----------|---------|-----------|---------|----------|---------|-----------|---------|----------|
| A1 | 1 | 338635 | 8117239 | B1 | 61 | 338720 | 8117165 | B1 | 121 | 338629 | 8117249 |
| A1 | 2 | 338635 | 8117238 | B1 | 62 | 338727 | 8117168 | B1 | 122 | 338629 | 8117249 |
| A1 | 3 | 338619 | 8117281 | B1 | 63 | 338725 | 8117171 | B1 | 123 | 338653 | 8117298 |
| A1 | 4 | 338616 | 8117284 | B1 | 64 | 338723 | 8117176 | B1 | 124 | 338655 | 8117302 |
| A1 | 5 | 338612 | 8117283 | B1 | 65 | 338728 | 8117181 | B1 | 125 | 338655 | 8117304 |
| A1 | 6 | 338635 | 8117305 | B1 | 66 | 338723 | 8117187 | B1 | 126 | 338655 | 8117305 |
| A1 | 7 | 338620 | 8117395 | B1 | 67 | 338723 | 8117184 | B1 | 127 | 338655 | 8117307 |
| A1 | 8 | 338673 | 8117424 | B1 | 68 | 338721 | 8117189 | B1 | 128 | 338655 | 8117308 |
| A1 | 9 | 338630 | 8117413 | B1 | 69 | 338718 | 8117201 | B1 | 129 | 338655 | 8117310 |
| A1 | 10 | 338639 | 8117403 | B1 | 70 | 338714 | 8117205 | B1 | 130 | 338655 | 8117311 |
| A1 | 11 | 338622 | 8117401 | B1 | 71 | 338713 | 8117210 | B1 | 131 | 338653 | 8117314 |
| A1 | 12 | 338626 | 8117384 | B1 | 72 | 338711 | 8117213 | B1 | 132 | 338627 | 8117354 |
| A1 | 13 | 338627 | 8117384 | B1 | 73 | 338708 | 8117220 | B1 | 133 | 338652 | 8117361 |
| A1 | 14 | 338653 | 8117314 | B1 | 74 | 338707 | 8117226 | B1 | 134 | 338677 | 8117390 |
| A1 | 15 | 338655 | 8117311 | B1 | 75 | 338705 | 8117231 | B1 | 135 | 338652 | 8117381 |
| A1 | 16 | 338655 | 8117310 | B1 | 76 | 338705 | 8117235 | B1 | 136 | 338640 | 8117393 |
| A1 | 17 | 338655 | 8117305 | B1 | 77 | 338705 | 8117241 | B1 | 137 | 338627 | 8117354 |
| A1 | 18 | 338655 | 8117307 | B1 | 78 | 338705 | 8117248 | B1 | 138 | 338626 | 8117364 |
| A1 | 19 | 338655 | 8117305 | B1 | 79 | 338705 | 8117253 | B1 | 139 | 338602 | 8117401 |
| A1 | 20 | 338655 | 8117304 | B1 | 80 | 338704 | 8117257 | B1 | 140 | 338658 | 8117408 |
| A1 | 21 | 338655 | 8117302 | B1 | 81 | 338704 | 8117262 | B1 | 141 | 338650 | 8117413 |
| A1 | 22 | 338629 | 8117349 | B1 | 82 | 338700 | 8117267 | B1 | 142 | 338672 | 8117424 |
| A1 | 23 | 338635 | 8117329 | B1 | 83 | 338698 | 8117271 | B1 | 143 | 338654 | 8117430 |
| B1 | 24 | 338662 | 8117811 | B1 | 84 | 338695 | 8117275 | B1 | 144 | 338649 | 8117440 |
| B1 | 25 | 338677 | 8117390 | B1 | 85 | 338692 | 8117277 | B1 | 145 | 338657 | 8117455 |
| B1 | 26 | 338677 | 8117423 | B1 | 86 | 338688 | 8117279 | B1 | 146 | 338659 | 8117459 |
| B1 | 27 | 338680 | 8117481 | B1 | 87 | 338683 | 8117283 | B1 | 147 | 338690 | 8117439 |
| B1 | 28 | 338680 | 8117212 | B1 | 88 | 338681 | 8117285 | B1 | 148 | 338618 | 8117387 |
| B1 | 29 | 338834 | 8117133 | B1 | 89 | 338678 | 8117288 | B1 | 149 | 338629 | 8117396 |
| B1 | 30 | 338828 | 8117135 | B1 | 90 | 338674 | 8117290 | B1 | 150 | 338649 | 8117395 |
| B1 | 31 | 338824 | 8117137 | B1 | 91 | 338673 | 8117292 | B1 | 151 | 338655 | 8117395 |
| B1 | 32 | 338820 | 8117139 | B1 | 92 | 338665 | 8117294 | B1 | 152 | 338655 | 8117434 |
| B1 | 33 | 338813 | 8117142 | B1 | 93 | 338666 | 8117295 | B1 | 153 | 338655 | 8117496 |
| B1 | 34 | 338809 | 8117145 | B1 | 94 | 338662 | 8117294 | B1 | 154 | 338664 | 8117434 |
| B1 | 35 | 338805 | 8117147 | B1 | 95 | 338659 | 8117293 | B1 | 155 | 338675 | 8117490 |
| B1 | 36 | 338800 | 8117148 | B1 | 96 | 338657 | 8117293 | B1 | 156 | 338680 | 8117481 |
| B1 | 37 | 338795 | 8117150 | B1 | 97 | 338655 | 8117293 | B1 | 157 | 338677 | 8117423 |
| B1 | 38 | 338791 | 8117151 | B1 | 98 | 338656 | 8117285 | B1 | 158 | 338677 | 8117350 |
| B1 | 39 | 338787 | 8117154 | B1 | 99 | 338657 | 8117281 | | | | |
| B1 | 40 | 338783 | 8117154 | B1 | 100 | 338661 | 8117279 | | | | |
| B1 | 41 | 338779 | 8117157 | B1 | 101 | 338663 | 8117273 | | | | |
| B1 | 42 | 338777 | 8117157 | B1 | 102 | 338655 | 8117270 | | | | |
| B1 | 43 | 338773 | 8117159 | B1 | 103 | 338670 | 8117285 | | | | |
| B1 | 44 | 338771 | 8117159 | B1 | 104 | 338671 | 8117280 | | | | |
| B1 | 45 | 338765 | 8117157 | B1 | 105 | 338672 | 8117285 | | | | |
| B1 | 46 | 338761 | 8117157 | B1 | 106 | 338673 | 8117283 | | | | |
| B1 | 47 | 338750 | 8117154 | B1 | 107 | 338673 | 8117280 | | | | |
| B1 | 48 | 338758 | 8117152 | B1 | 108 | 338672 | 8117283 | | | | |
| B1 | 49 | 338758 | 8117148 | B1 | 109 | 338671 | 8117283 | | | | |
| B1 | 50 | 338757 | 8117145 | B1 | 110 | 338667 | 8117281 | | | | |
| B1 | 51 | 338755 | 8117144 | B1 | 111 | 338665 | 8117280 | | | | |
| B1 | 52 | 338753 | 8117144 | B1 | 112 | 338662 | 8117281 | | | | |
| B1 | 53 | 338753 | 8117147 | B1 | 113 | 338661 | 8117282 | | | | |
| B1 | 54 | 338749 | 8117149 | B1 | 114 | 338658 | 8117283 | | | | |
| B1 | 55 | 338747 | 8117149 | B1 | 115 | 338654 | 8117285 | | | | |
| B1 | 56 | 338744 | 8117151 | B1 | 116 | 338652 | 8117240 | | | | |
| B1 | 57 | 338742 | 8117153 | B1 | 117 | 338649 | 8117245 | | | | |
| B1 | 58 | 338740 | 8117155 | B1 | 118 | 338638 | 8117235 | | | | |
| B1 | 59 | 338735 | 8117158 | B1 | 119 | 338635 | 8117238 | | | | |
| B1 | 60 | 338733 | 8117160 | B1 | 120 | 338635 | 8117239 | | | | |

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* states –
- (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) The person-
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is –
- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

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- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
- (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal ; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –

decision includes-

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or failure to make a decision; and
- (d) a purported decision ; and
- (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter-

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.