



10 August 2023

Senior Planner: Carl Ewin
Direct Phone: (07) 4086 4656
Our Reference: MCU/23/0009
Your Reference: 18-13/000895

Jacqshar Pty Ltd
C/- Planning Plus
PO Box 399
REDLYNCH QLD 4870

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 8 August 2023, under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: MCU/23/0009
Street Address: 1886 Kennedy Highway, Kuranda
Real Property Description: Lot 46 on SP328230
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Material Change of Use
Extractive Industry (Expansion of Existing Quarry)
Date of Decision: 8 August 2023

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) 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

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, 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 commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, 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 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 commencement of the use and at the rate applicable at the time of payment.

3.4 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.

3.5 Hours of Operation

All operations pursuant to the extractive industry, or in any way connected with the extractive industry will, for site operations and for removal of material, be limited to the hours between 7.00 am and 6.00 pm Mondays to Friday and 7:00am to 5:00pm Saturdays (except Public Holidays), PROVIDED ALWAYS that the Council will have the right at any time, and from time to time, to fix other hours of operation, and upon the fixing of any such other hours of operation pursuant to the permit, or in any way connected therewith, the extractive industry will be limited to such other hours. The Applicant will not be allowed to conduct nor permit nor suffer to be conducted, any extractive industry operation nor run nor start any motors, machinery, or the like, nor remove any materials from the said land on any Sunday or Public Holiday, or at any time outside the hours mentioned or such other hours as will be fixed by Council.

3.6 The Applicant shall provide Council with records of quantities of material extracted from the site on a monthly basis.

3.7 All operations pursuant to the extractive industry must be carried out in accordance with the Integrated Site Management Plan, except where modifications are required by the conditions of this approval or the related Environmental Authority.

3.8 The applicant will be required to take every precaution to avoid spillage and any spillage which occurs on any public road, shall be removed at the end of each working day or within four (4) hours of any verbal requirement by Council's delegated officer.

3.9 Scale and Intensity

The combined extraction volume of development approvals MC2003/27 and MCU/23/0009 must not exceed 100,000 tonnes per annum.

3.10 Rehabilitation

A Site Rehabilitation Management Plan is to be prepared by a suitably qualified and experienced person detailing the timing/staging of vegetation removal, method of removal and the sequence of operations and rehabilitation works.

Site rehabilitation works must be provided in a progressive manner in accordance with extraction sequences and staging. The method of rehabilitation needs to be detailed with appropriate revegetation strategies indicated including the species list to be used including plant source.

All site rehabilitation is to occur in accordance with the approved Site Rehabilitation Management Plan.

3.11 Prevention of the spread of weeds and pests

The applicant must ensure the development is carried out in a manner that prevents the spread of weeds, seeds or other pests into clean areas or away from any existing infested areas.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

- Schedule 10, Part 3, Division 4, Table 3 - Clearing native vegetation.
- Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – State transport infrastructure thresholds (Purpose 17 – Extractive industry)
- Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use near a State transport corridor

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
016-2302-00-DRG-0001A	Quarry Expansion Plan	Neon Consulting	16.03.23
016-2302-00-DRG-0002A	Waterway Top of Bank Assessment	Neon Consulting	16.03.23

ADVISORY NOTES

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

(D) ASSESSMENT MANAGER'S ADVICE

(a) 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.

(b) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(c) 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.

(d) 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.

(e) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(f) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a ***general biosecurity obligation***) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](#) or contact Biosecurity Queensland 13 25 23.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

SUBMISSIONS

Not Applicable.

RIGHTS OF APPEAL

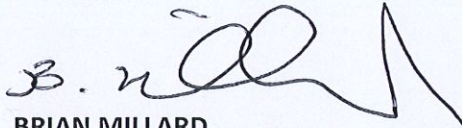
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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.

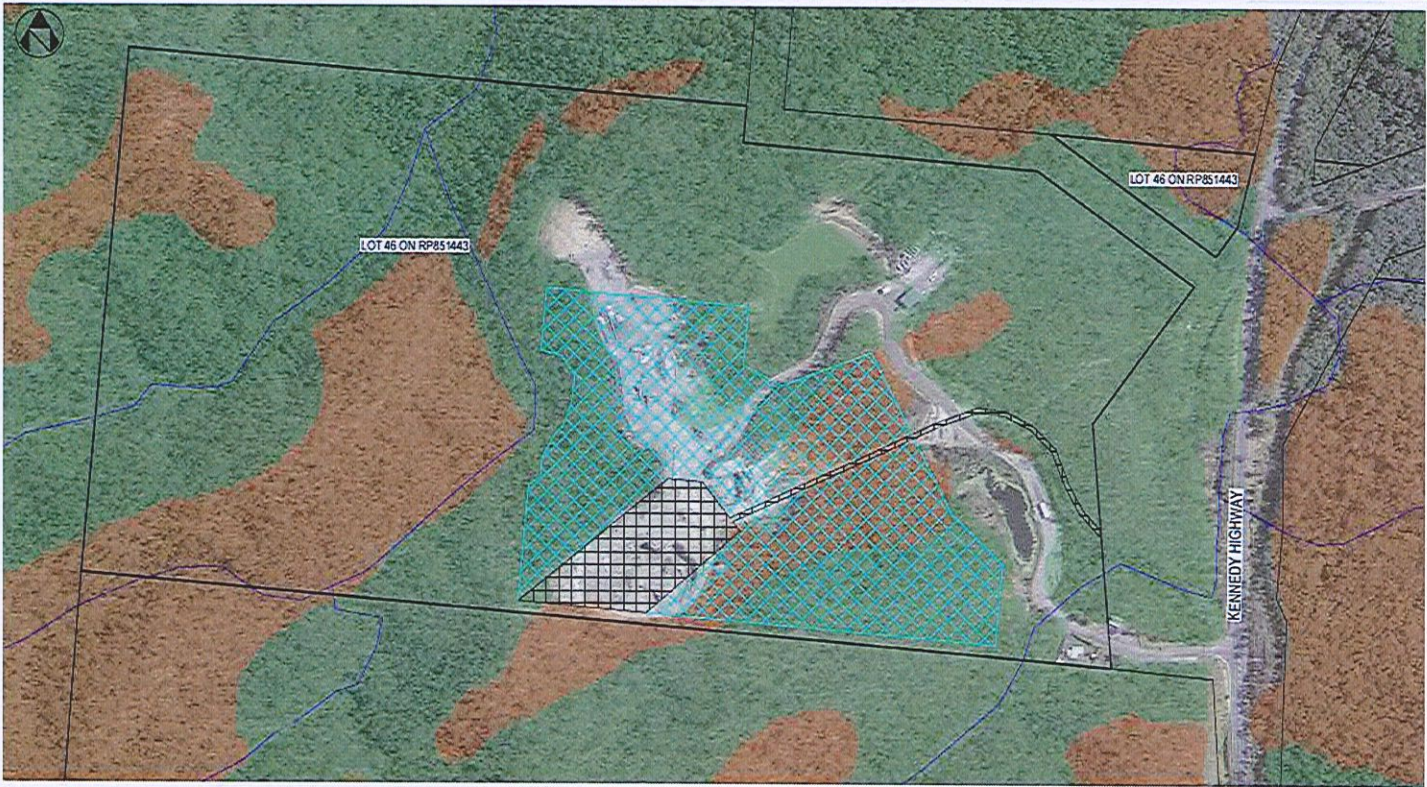
Yours faithfully





BRIAN MILLARD
COORDINATOR PLANNING SERVICES

Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights




Approved Plans/Documents



EXTRACTIVE INDUSTRY LEGEND

-  EXISTING APPROVED EXTRACTIVE INDUSTRY
-  PROPOSED EXPANDED EXTRACTIVE INDUSTRY
 - CLEARING AREA OF CONCERN IS 3.17ha
 - CLEARING AREA OF LEAST CONCERN IS 0.82ha

REGIONAL ECOSYSTEM LEGEND

-  CATEGORY A OR B AREA CONTAINING OF CONCERN
-  CATEGORY A OR B AREA THAT IS LEAST CONCERN
-  WATERCOURSE

SCHEDULE OF AREAS	
2.0ha	EXISTING APPROVED AREA
12.6ha	PROPOSED EXPANSION AREA
14.6ha	TOTAL AREA



A 16000 MM SCALE

Drawn: GABO Date: 08/08/2023
Reviewed: GABO Date: 08/08/2023
08/08/2023 10:27:47 AM - This is the final drawing of this plan. It is subject to the conditions of the relevant planning instrument.

NEON
CONSULTING

JACOBS HAR PTY LTD

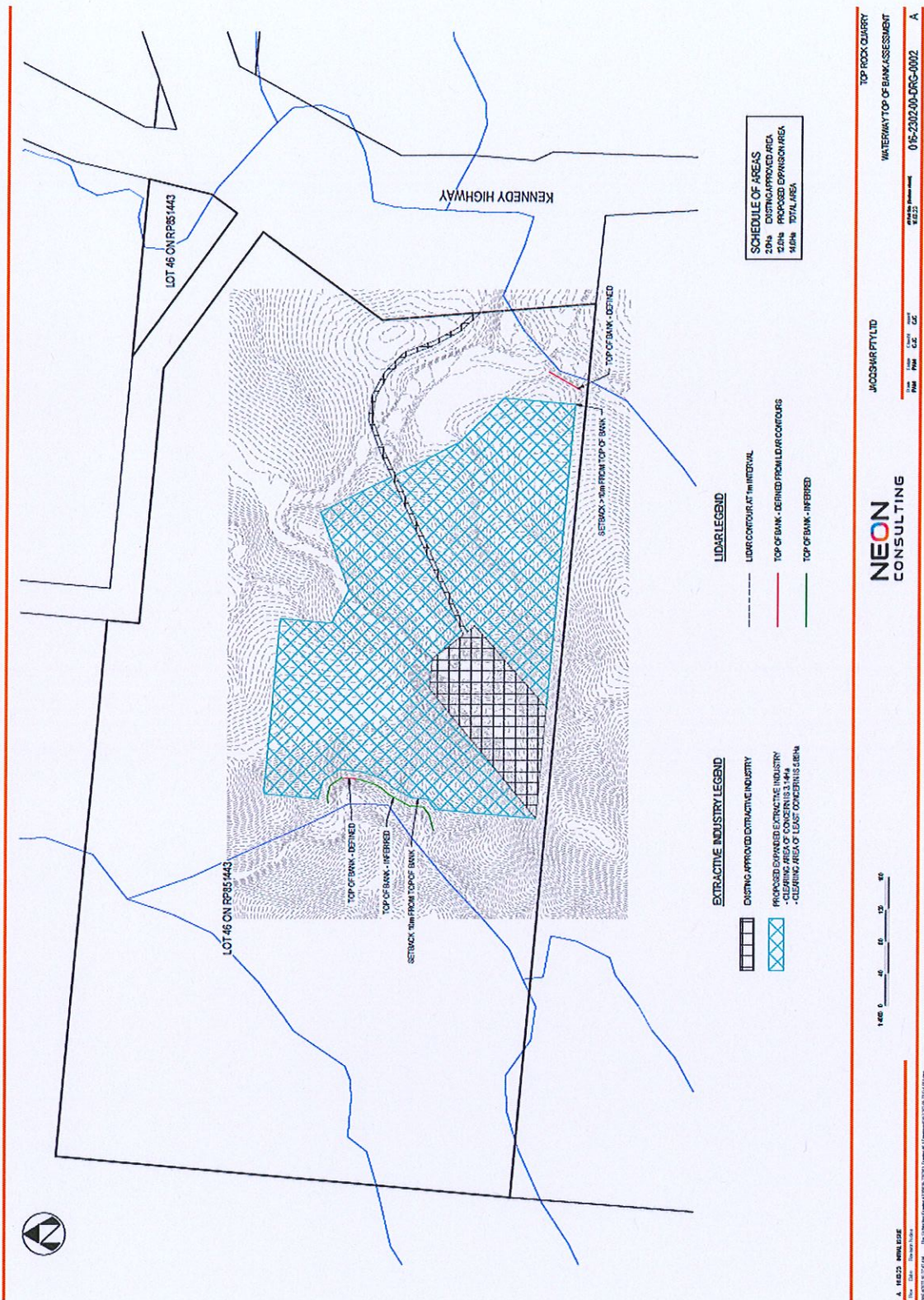
Drawn: GABO
Reviewed: GABO
Date: 08/08/2023

TOP ROCK QUARRY

QUARRY EXPANSION PLAN

015-2302-00-DRG-0001 A

10/8/2023
ab. m. d.



SCHEDULE OF AREAS

20% DISTINGUISHED AREA	12.5% PROPOSED EXPANSION AREA	10% TOTAL AREA
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NEON CONSULTING

JACOBSHARTY LTD

TOP ROCK CLIFF
WATERWAY TOP OF BANK ASSESSMENT

016-2302-00-0066-0002 A

10/8/2023
B. n. d.

Referral Agency Response

RA6-N



SARA reference: 2305-34663 SRA
 Council reference: MCU/23/0009
 Applicant reference: 18-13/000895

28 June 2023

Mareeba Shire Council
 PO Box 154
 MAREEBA QLD 4880
 info@msc.qld.gov.au

Attention: Carl Ewin

Dear Mr Ewin

SARA referral agency response—1886 Kennedy Highway, Kuranda

(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 (SARA) on 18 May 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	28 June 2023
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	Material change of use - Extractive Industry (Quarry expansion)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 3, Division 4, Table 3, Item 1 (Planning Regulation 2017) – Clearing native vegetation Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (Planning Regulation 2017) - State transport infrastructure thresholds	

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DA Advisory Team (DAAT)
 Level 13, 1 William Street, Brisbane
 PO Box 15009 CITY EAST QLD 4002

2305-34663 SRA

Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1
(Planning Regulation 2017) – State transport corridors

SARA reference: 2305-34663 SRA
Assessment manager: Mareeba Shire Council
Street address: 1886 Kennedy Highway, Kuranda
Real property description: Lot 46 on SP328230
Applicant name: Jacqshar Pty Ltd c/- Planning Plus
Applicant contact details: PO Box 399
REDLYNCH QLD 4870
info@planningplusqld.com.au

Human Rights Act 2019 considerations: A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

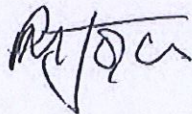
Representations

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 Leanne Simpson, Principal Planning Officer, on 5352 9707 or via email DAAT@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Phil Joyce
Acting Executive Director, Planning Group

cc Jacqshar Pty Ltd c/- Planning Plus, info@planningplusqld.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

2305-34663 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 documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use – Extractive industry (Quarry expansion)		
Schedule 10, Part 3, Division 4, Table 3, Item 1 – Clearing native vegetation - The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of 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 native vegetation must: <ul style="list-style-type: none"> (a) only occur within area A (A¹ - A⁴) as shown on the attached: <ul style="list-style-type: none"> (i) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2305-34663-SRA, Sheet 1, Version 1, dated 2023; and (ii) Attachment to Plan: 2305-34663-SRA, Derived Reference Points, prepared by Queensland Government, no reference and undated. 	At all times
2.	Enter into an agreed delivery arrangement to deliver an environmental offset, in accordance with the <i>Environmental Offsets Act 2014</i> , to counterbalance the significant residual impacts on the matter/s of state environmental significance being: <ul style="list-style-type: none"> (a) clearing prescribed regional ecosystems that are <i>of concern</i> regional ecosystems being: <ul style="list-style-type: none"> • 3.17 hectares of <i>Of Concern</i> Regional Ecosystem 7.11.33a (b) 7.89 hectares of Essential habitat for <i>Litoria serrata</i> (tapping green eyed frog) within the following regional ecosystems: <ul style="list-style-type: none"> • 3.17 hectares of <i>Of Concern</i> Regional Ecosystem 7.11.33a • 4.73 hectares of <i>Least Concern</i> Regional Ecosystem 7.11.51a 	Prior to commencing any works that impact on clearing prescribed regional ecosystems that are <i>Of concern</i> regional ecosystems and clearing defined regional ecosystems that are Essential habitat

2305-34663 SRA

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) (version 3.0). If a word remains undefined it has its ordinary meaning.

2305-34663 SRA

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

- The application is for a Development Permit for Material Change of Use – Extractive industry (Quarry expansion)
- The site is within 25m of a state-controlled road (Kennedy Highway)
- The proposed development involves a total assessable clearing area of 5.92 hectares of Category B Least concern regional ecosystem and 3.17 hectares of Category B Of concern regional ecosystem.
- The application requires assessment by SARA against the *State Development Assessment Provisions (SDAP)*, version 3.0:
 - o State code 1: Development in a state-controlled road environment
 - o State code 6: Protection of state transport networks
 - o State code 16: Native vegetation clearing
- SARA has assessed the development against State codes 1 and 6 and found the development complies with the relevant performance outcomes as appropriate access is provided to the site and the proposal does not seek to increase the extraction limit already approved on the site.
- SARA has assessed the development against State code 16 and found the development complies with the relevant performance outcomes as:
 - o the proposal seeks to avoid and minimise impacts on native vegetation
 - o clearing associated with the development maintains the composition, structure and function of the regional ecosystem
 - o clearing associated with the development maintains ecological processes and ensures the regional ecosystem remains in the landscape
 - o environmental offsets will be provided through an agreed delivery arrangement in accordance with the *Environmental Offsets Act 2014* to counterbalance the significant residual impacts on matters of state environmental significance.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

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2305-34663 SRA

Attachment 5—Documents referenced in conditions

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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*

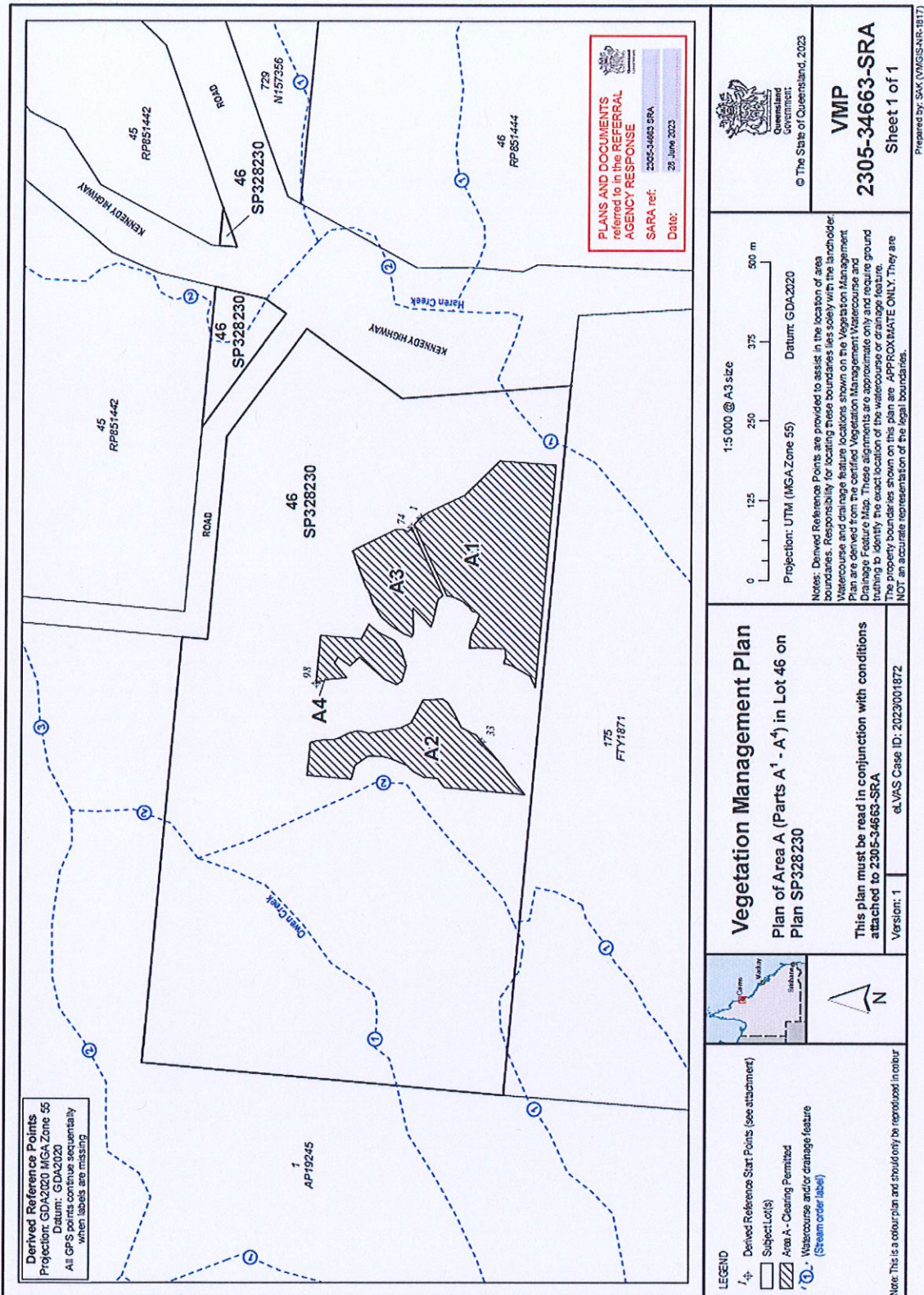
² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

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: 2305-34663-SRA
Derived Reference Points
Datum: GDA2020, Projection: MGA Zone 55**

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



SARA ref: 2305-34663 SRA

Date: 28 June 2023

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	Part ID	Unique ID	Easting	Northing	Part ID	Unique ID	Easting	Northing
A1	1	350818	8138183	A2	61	350279	8138262				
A1	2	350825	8138172	A2	62	350283	8138241				
A1	3	350853	8138113	A2	63	350287	8138214				
A1	4	350708	8138059	A2	64	350295	8138198				
A1	5	350701	8138971	A2	65	350318	8138184				
A1	6	350352	8138002	A2	66	350332	8138178				
A1	7	350369	8138009	A2	67	350333	8138147				
A1	8	350385	8138037	A2	68	350328	8138138				
A1	9	350389	8138047	A2	69	350313	8138129				
A1	10	350389	8138051	A2	70	350289	8138117				
A1	11	350401	8138048	A2	71	350279	8138099				
A1	12	350412	8138049	A2	72	350277	8138094				
A1	13	350414	8138089	A2	73	350266	8138086				
A1	14	350413	8138105	A3	74	350602	8138197				
A1	15	350428	8138103	A3	75	350498	8138147				
A1	16	350439	8138101	A3	76	350498	8138147				
A1	17	350449	8138095	A3	77	350489	8138155				
A1	18	350458	8138092	A3	78	350479	8138157				
A1	19	350466	8138090	A3	79	350466	8138160				
A1	20	350470	8138094	A3	80	350456	8138162				
A1	21	350471	8138101	A3	81	350447	8138168				
A1	22	350479	8138106	A3	82	350456	8138174				
A1	23	350482	8138110	A3	83	350476	8138194				
A1	24	350486	8138115	A3	84	350453	8138194				
A1	25	350489	8138119	A3	85	350435	8138194				
A1	26	350491	8138124	A3	86	350431	8138198				
A1	27	350491	8138124	A3	87	350435	8138208				
A1	28	350495	8138135	A3	88	350447	8138227				
A1	29	350495	8138140	A3	89	350462	8138244				
A1	30	350607	8138183	A3	90	350463	8138258				
A1	31	350608	8138192	A3	91	350505	8138264				
A1	32	350618	8138183	A3	92	350509	8138268				
A2	33	350286	8138088	A3	93	350568	8138289				
A2	34	350258	8138079	A3	94	350599	8138222				
A2	35	350250	8138071	A3	95	350599	8138210				
A2	36	350226	8138051	A3	96	350598	8138202				
A2	37	350217	8138044	A3	97	350602	8138197				
A2	38	350183	8138017	A4	98	350358	8138345				
A2	39	350194	8138143	A4	99	350433	8138338				
A2	40	350208	8138154	A4	100	350428	8138275				
A2	41	350210	8138175	A4	101	350451	8138283				
A2	42	350219	8138192	A4	102	350450	8138282				
A2	43	350225	8138188	A4	103	350438	8138249				
A2	44	350229	8138202	A4	104	350425	8138223				
A2	45	350234	8138215	A4	105	350411	8138213				
A2	46	350240	8138228	A4	106	350388	8138205				
A2	47	350243	8138244	A4	107	350381	8138211				
A2	48	350243	8138283	A4	108	350356	8138219				
A2	49	350229	8138284	A4	109	350364	8138238				
A2	50	350207	8138289	A4	110	350399	8138277				
A2	51	350213	8138358	A4	111	350388	8138292				
A2	52	350265	8138354	A4	112	350399	8138311				
A2	53	350267	8138344	A4	113	350390	8138316				
A2	54	350269	8138334	A4	114	350387	8138268				
A2	55	350269	8138323	A4	115	350384	8138331				
A2	56	350270	8138313	A4	116	350381	8138333				
A2	57	350274	8138303	A4	117	350360	8138343				
A2	58	350280	8138293	A4	118	350359	8138344				
A2	59	350282	8138281	A4	119	350358	8138344				
A2	60	350283	8138277	A4	120	350358	8138345				

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.
- (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.