



SARA reference: 2308-36116 SRA
Council reference: MCUC2023_5485/1
Applicant reference: AU006055 / R82095

12 September 2023

Chief Executive Officer
Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Sir/Madam

SARA referral agency response—Utility Installation - Additional Water Supply from Mossman River, Mossman Gorge

(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 11 August 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	12 September 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 for Utility Installation (an additional water supply intake and associated intake infrastructure extracting water from an anabranch of the Mossman River)
SARA role:	Referral agency	

SARA trigger:	Schedule 10, Part 3, Division 4, Table 3 (Planning Regulation 2017) – Material change of use involving vegetation clearing
SARA reference:	2308-36116 SRA
Assessment manager:	Douglas Shire Council
Street address:	1 & 3 Manjal Dimbi Road (and adjacent road reserve) and Lot 6 Gorge Road (and adjacent road reserve), Mossman Gorge
Real property description:	Lot 4 on RP716977, Lot 1 on RP716977, and Lot 6 on SP212661
Applicant name:	Douglas Shire Council
Applicant contact details:	C/- RPS AAP Consulting Pty Ltd 135 Abbott Street Cairns QLD 4870 owen.caddick-king@rpsgroup.com.au
<i>Human Rights Act 2019</i> considerations:	Section 58 of the <i>Human Rights Act 2019</i> specifies required conduct for public entities when acting or making a decision. Sections 15 – 37 of the <i>Human Rights Act 2019</i> identifies the human rights a public entity must consider in making a decision. This decision does not limit the above identified 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 Anthony Westbury, Planning Officer, on 40373214 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Douglas Shire Council, owen.caddick-king@rpsgroup.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
Attachment 5 - Documents referenced in conditions

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
Reconfiguring a lot		
Schedule 10, Part 3, Division 4, Table 3 – Material change of use involving native vegetation clearing—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: <ul style="list-style-type: none"> (a) Only occur within Area A (Part A1-A4) as shown on the attached: <ul style="list-style-type: none"> (i) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2308-36116 SRA, Sheet 1 of 1, version 2, dated 12 September 2023; and (ii) Attachment to Vegetation Management Plan VMP 2308-36116 SRA, Derived Reference Points for GPS. (b) Not exceed 0.197 hectares. 	At all times.
2.	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 areas where the clearing of vegetation must not occur.	Prior to clearing.

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.	<p>Operational works for waterway barrier works</p> <p>Aspects of the proposed access road may constitute waterway barrier works, as it appears the proposed works may be in areas that would meet the definition of a waterway as defined under the <i>Fisheries Act 1994</i>.</p> <p>Please review the Department of Agriculture and Fisheries' What is waterway? factsheet to determine whether the areas between CH950 to CH1000; CH1010 to CH1030; and CH1040 to CH1090 of the Access Road Plan (drawing no. 42-21142-C004), may meet the definition of a waterway under the <i>Fisheries Act 1994</i>.</p> <p>If these areas are waterways, the proposed culverts/filling of these areas will constitute waterway barrier works and you are advised to seek further pre-lodgement advice from SARA to determine waterway barrier works requirements.</p>

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA decision are:

The proposed development, with conditions, complies with the relevant provisions of State code 16: Native vegetation clearing, as follows:

- The proposed development has reasonably avoided, and minimised, the impacts to native vegetation and essential habitat.
- The development footprint has been located within non-remnant vegetation and the existing access track, wherever possible.
- Clearing of endangered regional ecosystems, of concern regional ecosystems, and essential habitat, is within acceptable limits.
- Clearing will retain sufficient vegetation in the subject lots and adjacent landscape to maintain ecological connectivity.

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*

Attachment 4— Representations about a referral agency response

(page left intentionally blank – attached separately)

Attachment 5—Documents referenced in conditions

(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

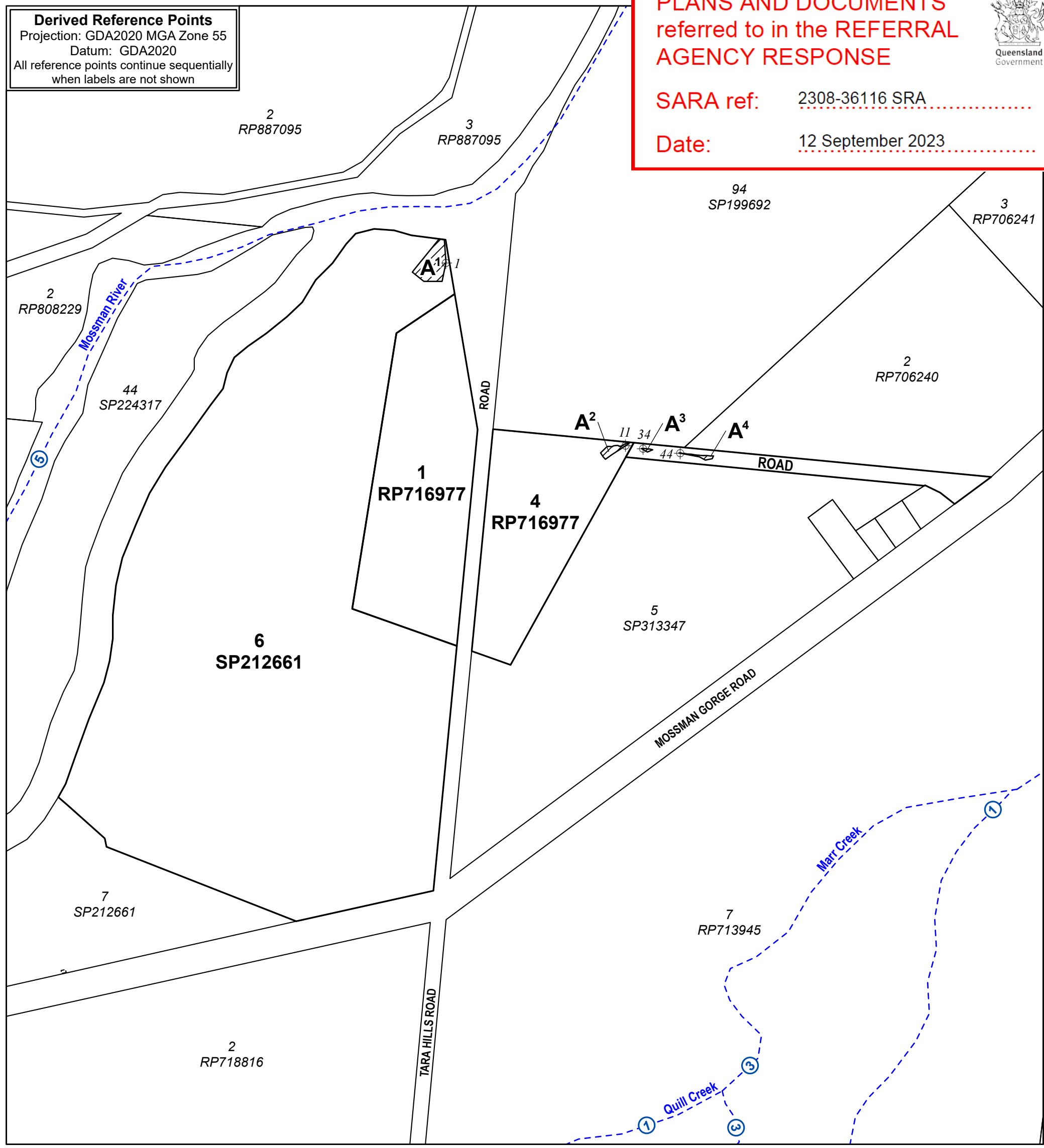
³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

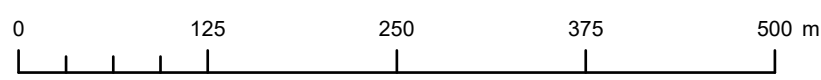


SARA ref: 2308-36116 SRA
Date: 12 September 2023

Derived Reference Points
Projection: GDA2020 MGA Zone 55
Datum: GDA2020
All reference points continue sequentially
when labels are not shown



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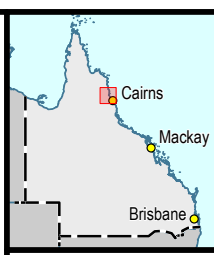


Projection: UTM (MGA Zone 55) Datum: GDA2020

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 2308-36116 SRA

- LEGEND**
- Derived Reference Start Points (see attachment)
 - Subject Lot(s)
 - Area A - Clearing Permitted
 - Watercourse and/or drainage feature (Stream order label)



Note: This is a colour plan and should only be reproduced in colour

Vegetation Management Plan

Plan of Area A (Parts A¹ - A⁴) in Lot 4 on Plan RP716977, Lot 6 on Plan SP212661, Lot 1 on Plan RP716977 and Road

Version: 2 eLVAS Case ID: 2023/002734



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VMP
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Sheet 1 of 1

