

Our reference: SPD-0717-037642

Your reference: PR119938

21 July 2017

Bulli Creek Solar Farm Pty Ltd
C/- Solar Choice Pty Ltd
Level 3, 39 East Esplanade
MANLY NSW 2095
By email: angus@solarchoice.net.au

ATTENTION: ANGUS GEMMELL

Dear Angus

Notice of decision – Changed Approval (Responsible Entity)
Development Permit – Material Change of Use – Utility Installation (Solar Farm)
400 Gore Highway and 397 Karriba Road, BULLI CREEK QLD 4357
(Given under section 376 of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning (DILGP) received your request to change under section 369 of the *Sustainable Planning Act 2009* on 30 June 2017 for the original decision described below.

Applicant details

Applicant name:	Bulli Creek Solar Farm Pty Ltd C/- Solar Choice Pty Ltd
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Site details

Real property description:	Lot 5 on DY1025; Lot 37 on DY1103, Lot 4 on DY1024 and Lot 39 on DY916
Local government area:	Toowoomba Regional Council

Application details

Proposed development:	Development Permit for Material Change of Use – Utility Installation (Solar Farm)
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Original decision

Date of original decision: 12 June 2015

Original decision details: Approved subject to conditions

A changed decision notice for this request is attached.

Copies of the following documents are also attached:

- relevant appeal provisions in the Act
- any plans and specifications approved in relation to the decision notice.

For further information, please contact Brittany Hughes, Planning Officer, SARA Darling Downs South West on 46167307, or via email Brittany.Hughes@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Ian McHugh
A/Manager (Planning)

enc: Changed decision notice
Attachment 1—Changed Concurrence agency conditions
Attachment 2—SPA appeal provisions
Approved plans and specifications

Our reference: SPD-0717-037642

Your reference: PR119938

Changed decision notice

(Given under section 376 of the *Sustainable Planning Act 2009*)

Applicant details

Applicant name: Bulli Creek Solar Farm Pty Ltd
C/- Solar Choice Pty Ltd

Applicant contact details: Level 3, 39 East Esplanade
MANLY NSW 2095

Application details

Level of assessment: Code assessment

Original application properly made date: 14 February 2014

Date of request for change: 30 June 2017

Site details

Street address: 400 Gore Highway and 397 Karriba Road, BULLI CREEK
QLD 4357

Lot on plan: Lot 5 on DY1025; Lot 37 on DY1103, Lot 4 on DY1024 and
Lot 39 on DY916

Name of owner: Toowoomba Regional Council

Nature of the changes

The nature of the changes agreed to are:

Concurrence agency response – Amend existing conditions 7 and 8:

1. The applicant has requested amendments to the original Referral Agency Response (Vegetation) Plan (RARP) to reflect changes to the regulated vegetation management mapping made through a recent property map of assessable vegetation (PMAV 2017/002563).

Original decision

Date of original decision: 12 June 2015
 Original decision details: Approved subject to conditions

Changed decision

Date of changed decision: 21 July 2017
 Changed decision details: Approved subject to conditions

Conditions

This approval is subject to:

- the changed concurrence agency conditions in Attachment 1

DILGP has, for particular conditions of this approval, nominated an entity to be the assessing authority for that condition under section 255D(3) of the *Sustainable Planning Act 2009*.

Rights of appeal

The rights of applicants to appeal to the Planning and Environment Court against decisions about a development application are set out in chapter 7, part 1, division 8 of the *Sustainable Planning Act 2009*. For particular applications, there may also be a right to appeal to the Building and Development Dispute Resolution Committee (see chapter 7, part 2 of the Act).

Copies of the relevant appeal provisions are attached.

Relevant period for the approval

This development approval will lapse if development is not started within the relevant periods stated in section 341 of the Act.

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Attachment 1— Changed Concurrence Agency Conditions

No.	Conditions of development approval	Condition timing
Material Change of Use – Utility Installation (Solar Farm)		
Schedule 7, Table 3, Item 1—Pursuant to section 255D of the Sustainable Planning Act 2009, the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads (DTMR) to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
In accordance with approved plans		
1.	The development must be carried out generally in accordance with the following plans: • Bulli Creek Indicative Site Plan – Development Area with Buffers, prepared by RPS Group Pty Ltd, dated 22 January 2014, Drawing Plan Ref: Figure 1 (Project: PR119938)	At all times.
Location of the direct vehicular access to the state-controlled road		
2.	The permitted road access locations, for which approval under section 62 of the Transport Infrastructure Act 1994 must be obtained, are to be located as identified generally in accordance with the 'Bulli Creek Indicative Site Plan – Development Area with Buffers', prepared by RPS Group Pty Ltd, dated 22 January 2014, Drawing Plan Ref: Figure 1 (Project: PR119938).	At all times.
3.	Direct access is not permitted between the Gore Highway and the subject site at any location other than the permitted road access locations (for which approval under section 62 of the Transport Infrastructure Act 1994 must be obtained).	At all times.
State-controlled road network impact mitigation		
4.	Road access works comprising: Channelised Right Turn Treatment (CHR); and Auxiliary Left Turn Treatment (AUL) to the development, (for which approval under section 33 of the Transport Infrastructure Act 1994 must be obtained), at each permitted road access location must be provided generally in accordance with Bulli Creek Indicative Site Plan – Development Area with Buffers, prepared by RPS Group Pty Ltd, dated 22 January 2014, Drawing Plan Ref: Figure 1 (Project: PR119938). The road access works must be designed and constructed to cater for heavy vehicles as defined in the Transport Operations (Road Use Management) Act 1995 associated with the proposed development and be constructed in	Prior to commencement of use.

No.	Conditions of development approval	Condition timing
	accordance with DTMR Road Planning and Design Manual and any other manuals/ standards/ technical publications referenced therein.	
Stormwater and Drainage impacts on the state-controlled road (SCR)		
5.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the SCR.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the SCR; (ii) interfere with and/or cause damage to the existing stormwater drainage on the SCR; (iii) surcharge any existing culvert or drain on the SCR; (iv) reduce the quality of stormwater discharge on the SCR. <p>AND</p> <p>(c) A Registered Professional Engineer of Queensland (RPEQ) certification must be provided to DTMR Darling Downs District, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition.</p>	<p>(a) and (b): At all times.</p> <p>(c) Prior to commencement of use.</p>
6.	<p>Pay a monetary contribution of \$4,650 per 100 mw stage of the Solar Farm being developed to DTMR (Darling Downs District) towards protecting or maintaining the safety or efficiency of the SCR network in accordance with Section 666(2) of the Sustainable Planning Act 2009. The contribution is for the maintenance of the SCR network.</p> <p>AND</p> <p>This monetary contribution shall be indexed based on the Road and Bridge Construction Index, Queensland – Class 3101, published quarterly by the Australian Bureau of Statistics (ABS Cat No. 6427, Series ID A2333727L) to the date of payment.</p>	<p>Prior to obtaining a final inspection certificate or certificate of classification, whichever is applicable, or prior to the commencement of use of each stage, whichever occurs first.</p>
<p>Schedule 7, Table 3, Item 10—Pursuant to section 255D of the Sustainable Planning Act 2009, the chief executive administering the Act nominates the Director-General of the Department of Natural Resources and Mines (DNRM) to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):</p>		
Vegetation Clearing		
7.	<p>Any new infrastructure associated with the material change of use must not be located within “Area A” as identified on the Referral Agency Response (Vegetation) Plan SDA-0614-011642, dated 5 August 2014.</p> <p>Any new infrastructure associated with the material change</p>	<p>At all times.</p> <p>At all times.</p>

No.	Conditions of development approval	Condition timing
	of use must not be located within “Area A” as identified on the Referral Agency Response (Vegetation) Plan SPD-0717-037642, dated 17 July 2017.	
8.	<p>Any new infrastructure associated with the material change of use, other than fences, roads and underground services, must not be located within “Area B” as identified on the Referral Agency Response (Vegetation) Plan SDA-0614-011642, dated 5 August 2014.</p> <p>Any new infrastructure associated with the material change of use, other than fences, roads and transmission lines, must not be located within “Area B” as identified on the Referral Agency Response (Vegetation) Plan SPD-0717-037642, dated 17 July 2017.</p>	<p>At all times.</p> <p>At all times.</p>

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Attachment 2—SPA Appeal Provisions

Sustainable Planning Act 2009—Representation and appeal provisions

The following relevant appeal provisions are provided in accordance with s336(a) of the *Sustainable Planning Act 2009*.

Chapter 6 Integrated development assessment system (IDAS)

Part 8 Dealing with decision notices and approvals

Division 1 Changing decision notices and approvals during applicant's appeal period

360 Application of div 1

This division applies only during the applicant's appeal period.

361 Applicant may make representations about decision

- (1) The applicant may make written representations to the assessment manager about—
 - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
 - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

362 Assessment manager to consider representations

The assessment manager must consider any representations made to the assessment manager under section 361.

363 Decision about representations

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (the ***negotiated decision notice***) to—
 - (a) the applicant; and
 - (b) each principal submitter; and
 - (c) each referral agency; and
 - (d) if the assessment manager is not the local government and the development is in a local government area—the local government.
- (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
- (3) Only 1 negotiated decision notice may be given.
- (4) The negotiated decision notice—
 - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
 - (b) must comply with section 335; and
 - (c) must state the nature of the changes; and
 - (d) replaces—

- (i) the decision notice previously given; or
 - (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval—the standard conditions applying to the deemed approval.
- (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to agree with any of the representations, give written notice to the applicant stating the decision about the representations.

364 Giving new notice about charges for infrastructure

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of an infrastructure charge, regulated infrastructure charge or adopted infrastructure charge.
- (2) The local government may give the applicant a new infrastructure charges notice under section 633, regulated infrastructure charges notice under section 643 or adopted infrastructure charges notice under section 648F to replace the original notice.

366 Applicant may suspend applicant's appeal period

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager—
 - (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection (1)—the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
 - (b) if the assessment manager gives the applicant a notice under section 363(5)—the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or
 - (c) if the assessment manager gives the applicant a negotiated decision notice—the applicant's appeal.

Chapter 7 Appeals, offences and enforcement

Part 1 Planning and Environment Court

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

- (1) An applicant for a development application may appeal to the court against any of the following—
 - (a) the refusal, or the refusal in part, of the development application;
 - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a period mentioned in section 341;
 - (e) a deemed refusal of the development application.

- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the **applicant's appeal period**) after—
 - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
 - (b) otherwise—the day a decision notice was required to be given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

462 Appeals by submitters—general

- (1) A submitter for a development application may appeal to the court only against—
 - (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) the part of the approval relating to the assessment manager's decision under section 327.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
 - (a) the giving of a development approval;
 - (b) any provision of the approval including—
 - (i) a condition of, or lack of condition for, the approval; or
 - (ii) the length of a period mentioned in section 341 for the approval.
- (3) However, a submitter may not appeal if the submitter—
 - (a) withdraws the submission before the application is decided; or
 - (b) has given the assessment manager a notice under section 339(1)(b)(ii).
- (4) The appeal must be started within 20 business days (the **submitter's appeal period**) after the decision notice or negotiated decision notice is given to the submitter.

463 Additional and extended appeal rights for submitters for particular development applications

- (1) This section applies to a development application to which chapter 9, part 7 applies.
- (2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a concurrence agency for the application.
- (3) However, the submitter may only appeal against a referral agency's response to the extent it relates to—
 - (a) development for an aquacultural ERA; or
 - (b) development that is—
 - (i) a material change of use of premises for aquaculture; or
 - (ii) operational work that is the removal, damage or destruction of a marine plant.
- (3) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—
 - (a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive;
 - (b) a referral agency's response mentioned in subsection (2).

464 Appeals by advice agency submitters

- (1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.
- (2) The advice agency may, within the limits of its jurisdiction, appeal to the court about—
 - (a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) any part of the approval relating to the assessment manager's decision under section 327.
- (3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.
- (4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.

465 Appeals about decisions relating to extensions for approvals

- (1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
- (3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

466 Appeals about decisions relating to permissible changes

- (1) For a development approval given for a development application, the following persons may appeal to the court against a decision on a request to make a permissible change to the approval—
 - (a) if the responsible entity for making the change is the assessment manager for the application—
 - (i) the person who made the request; or
 - (ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;
 - (b) if the responsible entity for making the change is a concurrence agency for the application—the person who made the request.
- (2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.
- (3) Also, a person who has made a request under section 369 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

467 Appeals about changing or cancelling conditions imposed by assessment manager or concurrence agency

- (1) A person to whom a notice under section 378(9)(b) giving a decision to change or cancel a condition of a development approval has been given may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

Division 11 Making and appeal to Court**481 How appeals to the court are started**

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

482 Notice of appeal to other parties—development applications and approvals

- (1) An appellant under division 8 must give written notice of the appeal to—
 - (a) if the appellant is an applicant—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any concurrence agency; and
 - (iv) any principal submitter whose submission has not been withdrawn; and
 - (v) any advice agency treated as a submitter whose submission has not been withdrawn; or

- (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any referral agency; and
 - (iv) the applicant; or
 - (c) if the appellant is a person to whom a notice mentioned in section 465(1) has been given—
 - (i) the chief executive; and
 - (ii) the assessment manager for the development application to which the notice relates; and
 - (iii) any entity that was a concurrence agency for the development application to which the notice relates; and
 - (iv) the person who made the request under section 383 to which the notice relates, if the person is not the appellant; or
 - (d) if the appellant is a person mentioned in section 466(1)—
 - (i) the chief executive; and
 - (ii) the responsible entity for making the change to which the appeal relates; and
 - (iii) the person who made the request to which the appeal relates under section 369, if the person is not the appellant; and
 - (iv) if the responsible entity is the assessment manager—any entity that was a concurrence agency for the development application to which the notice of the decision on the request relates; or
 - (e) if the appellant is a person to whom a notice mentioned in section 467 has been given—the entity that gave the notice.
- (2) The notice must be given within—
- (a) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (3) The notice must state—
- (a) the grounds of the appeal; and
 - (b) if the person given the notice is not the respondent or a co-respondent under section 485—that the person may, within 10 business days after the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

485 Respondent and co-respondents for appeals under div 8

- (1) Subsections (2) to (8) apply for appeals under sections 461 to 464.
- (2) The assessment manager is the respondent for the appeal.
- (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
- (4) Any submitter may elect to become a co-respondent for the appeal.
- (5) If the appeal is about a concurrence agency's response, the concurrence agency is a co-respondent for the appeal.
- (6) If the appeal is only about a concurrence agency's response, the assessment manager may apply to the court to withdraw from the appeal.
- (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
- (8) A person to whom a notice of appeal is required to be given under section 482 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
- (9) For an appeal under section 465—
 - (a) the assessment manager is the respondent; and

- (b) if the appeal is started by a concurrence agency that gave the assessment manager a notice under section 385—the person asking for the extension the subject of the appeal is a co-respondent; and
 - (c) any other person given notice of the appeal may elect to become a co-respondent.
- (10) For an appeal under section 466—
- (a) the responsible entity for making the change to which the appeal relates is the respondent; and
 - (b) if the responsible entity is the assessment manager—
 - (i) if the appeal is started by a person who gave a notice under section 373 or a pre-request response notice—the person who made the request for the change is a co-respondent; and
 - (ii) any other person given notice of the appeal may elect to become a co-respondent.
- (11) For an appeal under section 467, the respondent is the entity given notice of the appeal.

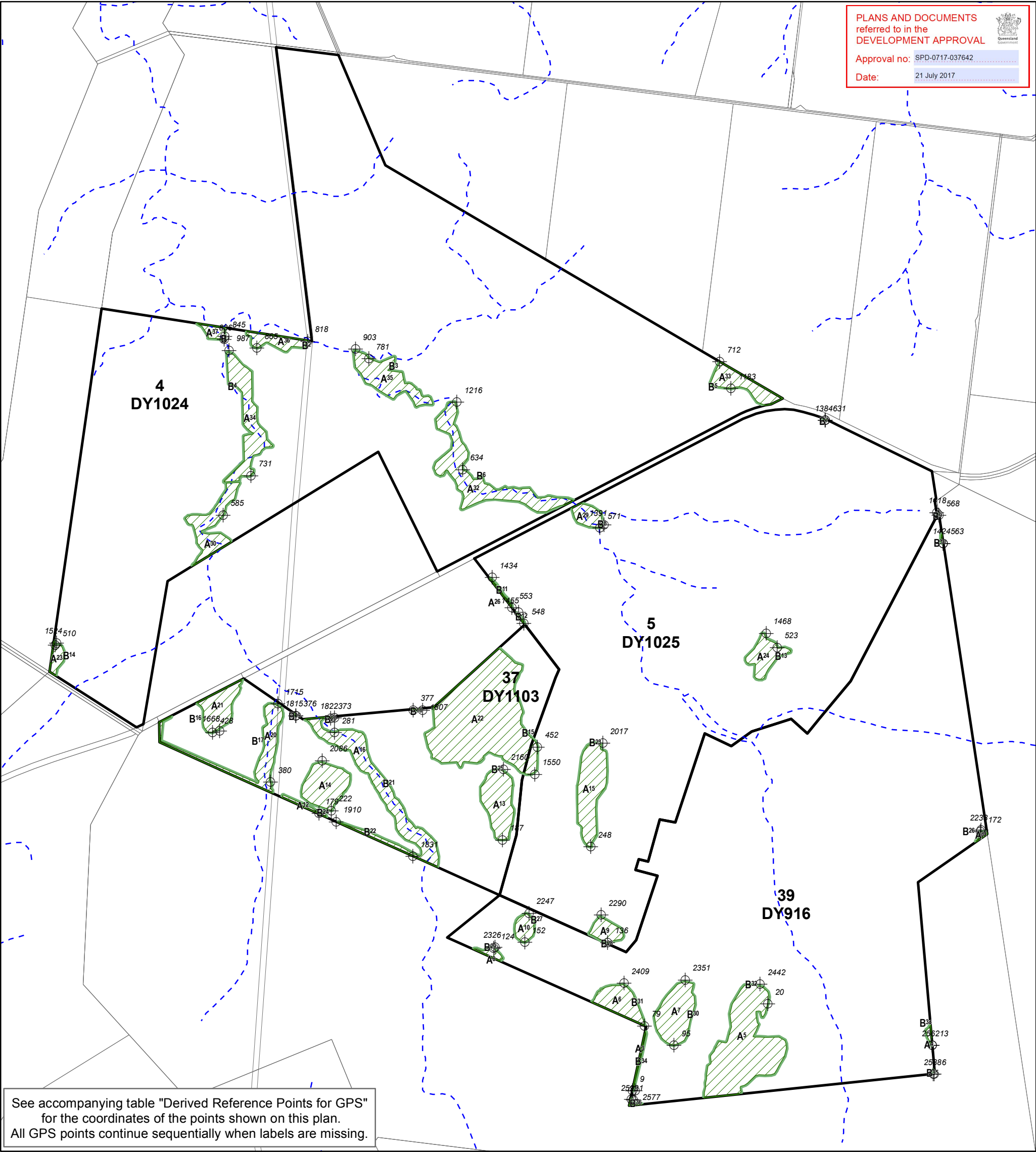
488 How an entity may elect to be a co-respondent

An entity that is entitled to elect to be a co-respondent to an appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.

490 Lodging appeal stops particular actions

- (1) If an appeal, other than an appeal under section 465, 466 or 467, is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) If an appeal is about a condition imposed on a compliance permit, the development must not be started until the appeal is decided or withdrawn.
- (3) Despite subsections (1) and (2), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.

Approved plans and specifications



1:40000 @ A3 size

0 0.25 0.5 1 1.5 2 2.5 3 km

Projection: UTM (MGA Zone 56) Datum: GDA94

Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).

The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.

Note: This plan must be read in conjunction with Referral Agency Response SPD-0717-037642

LEGEND

- Derived Reference Points for GPS
- Subject Lot(s)
- QLD DCDB
- Area A (Area A1 - A37)
- Area B (Area B1 - B36)
- Watercourse (Geoscience Australia)

Referral Agency Response (Vegetation) Plan

Plan of Area A & B in Lot 37 on DY1103, Lot 39 on DY916, Lot 4 on DY1024 and Lot 5 on DY1025

CENTRE: TOOWOOMBA
LOCALITY OF BULLI CREEK

REGION: SOUTH
LOCAL GOVT: TOOWOOMBA

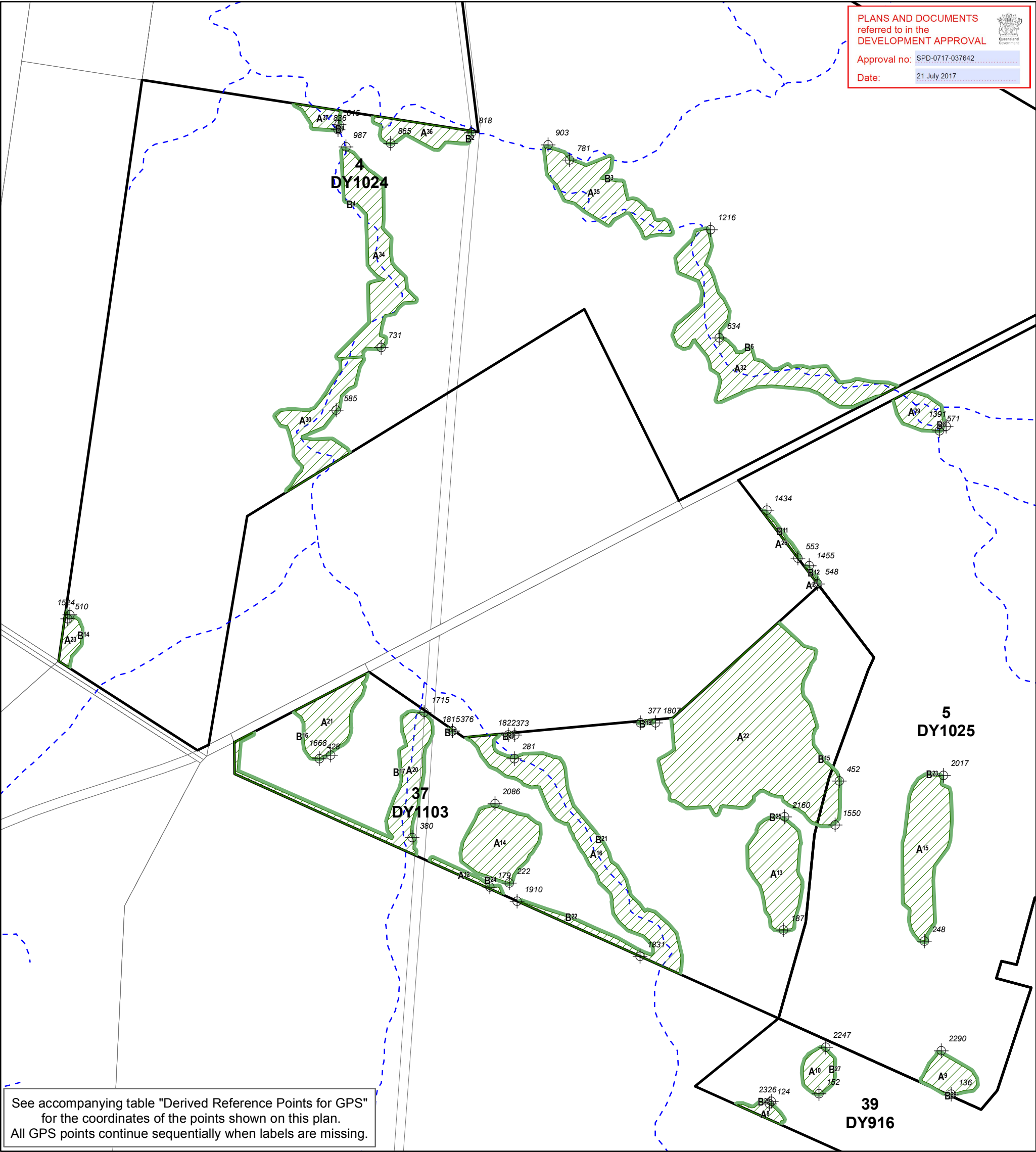
Map Reference: 9041,9042

Compiled from: DCDB, PVMP & NRMO Notes

File Reference: 2017/003278

Prepared by: JDC Date: 17 July 2017

RARP
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Sheet 1 of 4



LEGEND

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 Derived Reference Points for GPS

Subject Lot(s)

QLD DCDB

Area A (Area A1 - A37)

Area B (Area B1 - B36)

Watercourse (Geoscience Australia)

Referral Agency Response (Vegetation) Plan

Plan of Area A & B in Lot 37 on DY1103, Lot 39 on DY916, Lot 4 on DY1024 and Lot 5 on DY1025

CENTRE: TOOWOOMBA

LOCALITY OF BULLI CREEK

REGION: SOUTH

LOCAL GOVT: TOOWOOMBA

Map Reference: 9041,9042

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Compiled from: DCDB, PVMP & NRMO Notes

Prepared by: JDC

Date: 17 July 2017

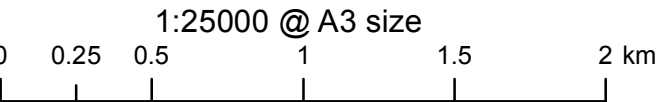
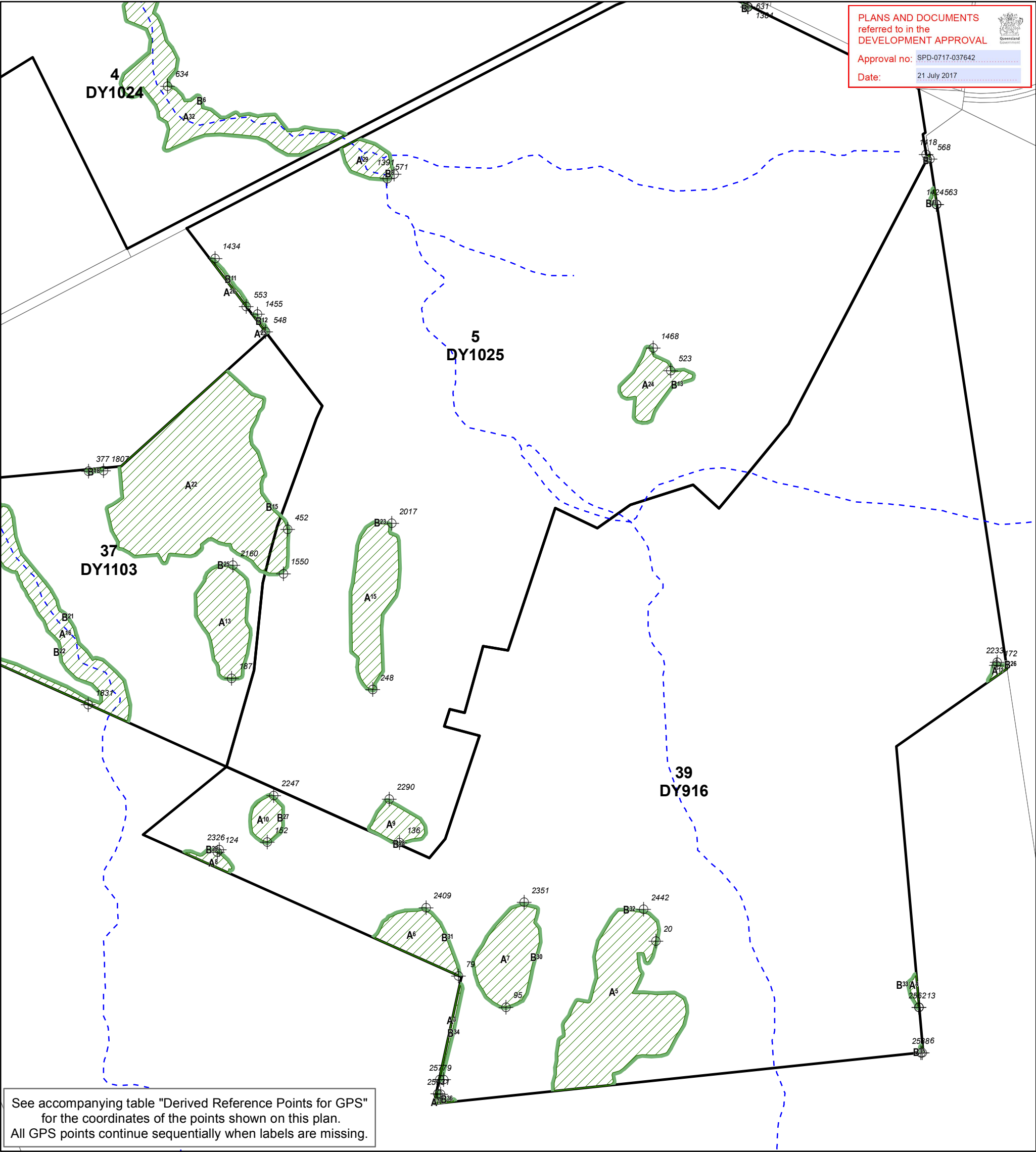
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Queensland Government

RARP

SPD-0717-037642

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Projection: UTM (MGA Zone 56) Datum: GDA94

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Note: This plan must be read in conjunction with Referral Agency Response SPD-0717-037642

LEGEND

Derived Reference Points for GPS

Subject Lot(s)

QLD DCDB

Area A (Area A1 - A37)

Area B (Area B1 - B36)

Watercourse (Geoscience Australia)

Referral Agency Response (Vegetation) Plan

Plan of Area A & B in Lot 37 on DY1103, Lot 39 on DY916, Lot 4 on DY1024 and Lot 5 on DY1025

CENTRE: TOOWOOMBA
LOCALITY OF BULLI CREEK

REGION: SOUTH
LOCAL GOVT: TOOWOOMBA

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RARP

SPD-0717-037642

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