

DELEGATED REPORT

SUBJECT: MFA & PS WAGSTAFF - RECONFIGURING A LOT - SUBDIVISION (1 INTO 3 LOTS) - LOT 11 ON MPH40232 - 24-26 BILWON ROAD, BIBOOHRA - RAL/22/0006

DATE: 5 July 2022

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	MFA & PA Wagstaff	ADDRESS	24-26 Bilwon Road, Biboohra
DATE LODGED	10 June 2022	RPD	Lot 11 on MPH40232
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 3 Lots)		

FILE NO	RAL/22/0006	AREA	8,094m ²
LODGED BY	U&i Town Plan	OWNER	MFA & PA Wagstaff
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Low density residential zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A - Code assessment only		

ATTACHMENTS:

1. Proposal Plan/s
2. Department of State Development, Infrastructure, Local Government and Planning Referral Agency Response dated 22 June 2022

EXECUTIVE SUMMARY

Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.

The application has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme.

Draft conditions were provided to the Applicant care of their consultant and have been agreed to.

It is recommended that the application be approved in full, subject to conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	MFA & PA Wagstaff	ADDRESS	24-26 Bilwon Road, Biboohra
DATE LODGED	10 June 2022	RPD	Lot 11 on MPH40232
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 3 Lots)		

and in accordance with the Sustainable Planning Act 2009, the applicant be notified that the application for a development permit for the development specified in (A) is:

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

And

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

(A) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Subdivision (1 into 3 Lots)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
R5-22	Subdivision Plan - 1 into 3 Lots	U&i Town Plan	28/04/2022

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by 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

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, 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 contained 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 required to be made to the Council (including contributions, charges and bonds) pursuant to any condition of this approval must be made prior 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. Where existing building/s are in proximity to new property boundaries, a plan demonstrating compliance with the required setback must be submitted prior to endorsement of the plan of survey.

3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements 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.

4. Infrastructure Services and Standards

4.1 Access

An access crossover must be upgraded/constructed to each proposed lot, including Lot 3 (from the edge of the road to the property boundary or 10m, whichever is lesser) in accordance with FNQROC Development Manual Standards (as amended), to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage

4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practical measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2.2 All stormwater drainage 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 1 and 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) A minimum 2 megalitre water allocation from SunWater's irrigation supply network; or
- (c) 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 On-Site Wastewater Management

At the time of construction of any future dwelling on Lot 1 and 2, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

4.5 Electricity provision/supply

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

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

4.6 Telecommunications

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

(D) ASSESSMENT MANAGER'S ADVICE

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

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

(c) Endorsement Fees

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

(d) 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.

(e) Notation on Rates Record

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

- conditions regarding future on-site wastewater disposal (Lots 1 and 2 only)
- conditions regarding future on-site water supply (Lots 1 and 2 only)

(f) 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.environment.gov.au.

(g) 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.datsip.qld.gov.au.

(E) REFERRAL AGENCY CONDITIONS

Department of State Development, Infrastructure, Local Government and Planning conditions dated 22 June 2022.

(F) RELEVANT PERIOD

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

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

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

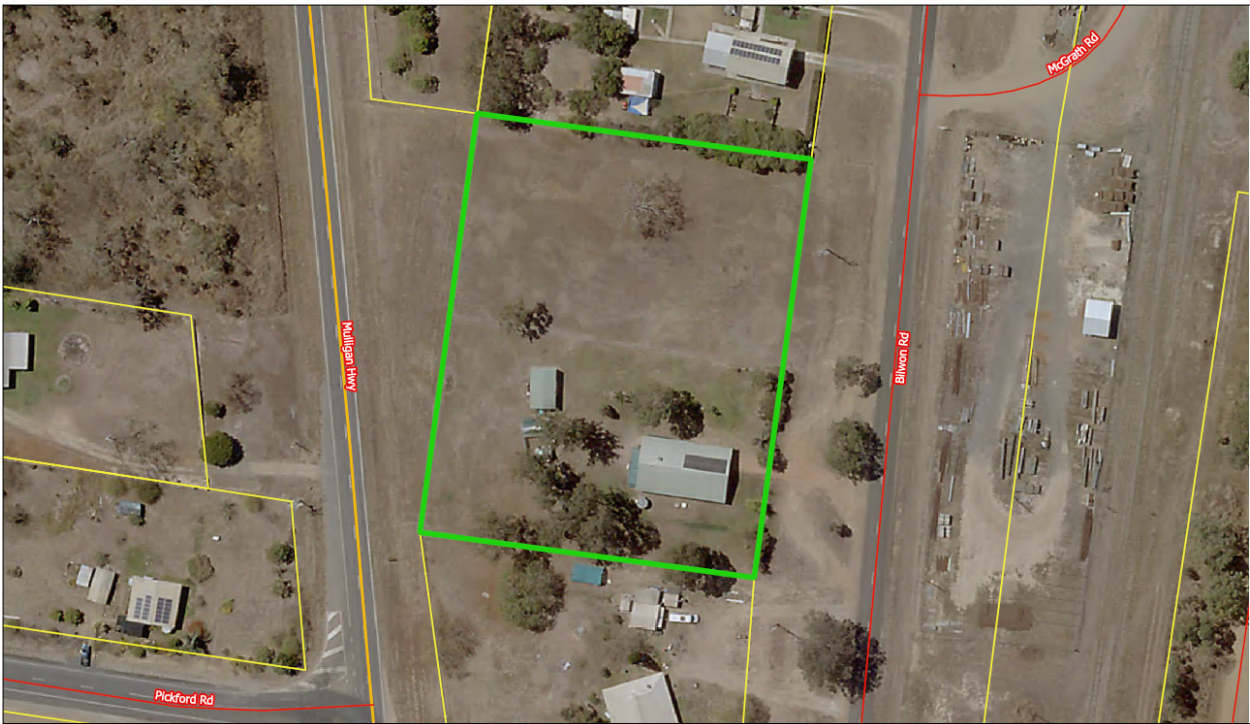
- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

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

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

Development Type	Rate	Measure	Charge	Credit Detail	Balance
	<i>\$ per Lot</i>	<i>Lots</i>		<i>Lots</i>	
Residential (40% discount for no town water or sewer)	\$12,156.00	3 Lots	\$36,468.00	1 lot (\$12,156.00)	\$24,312.00
TOTAL CURRENT AMOUNT OF CHARGE					\$24,312.00



Map Disclaimer:

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



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THE SITE

The subject site is situated 80 metres north of the Biboohra Shop at 24-26 Bilwon Road, Biboohra, and is more particularly described as Lot 11 MPH40232. The site is regular in shape with an area of 8,094m² and is zoned Low density residential under the Mareeba Shire Council Planning Scheme 2016.

The site contains 101 metres of frontage to Bilwon Road to the east of the site and a further 101 metres of frontage to the Mulligan Highway to the west of the site. Both roads are constructed to bitumen sealed standard. Access is gained from Bilwon Road only. The site is improved by a single dwelling and outbuilding on the southern half of the property. The site is serviced by all urban services with the exception of town water and sewer which are not available in the Biboohra Township. High voltage powerlines run adjacent the eastern frontage of the site within the Bilwon Road reserve.

All immediate surrounding lots are zoned Low density residential and contain single dwellings.

BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Subdivision (1 into 3 Lots) in accordance with the plans shown in **Attachment 1** and below:



REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies that the site as containing:

- *Terrestrial Area of General Ecological Significance* (considered to be a mapping discrepancy)

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> Residential Area Transport Elements <ul style="list-style-type: none"> State Controlled Road Local Collector Road Principal Cycle Route Infrastructure Elements <ul style="list-style-type: none"> Major Electrical Infrastructure
Zone:	Low Density Residential
Overlays:	<ul style="list-style-type: none"> Environmental Significance Overlay Residential Dwelling House and Outbuilding Overlay Regional Infrastructure Corridors and Substations Overlay Transport Infrastructure Overlay

RELEVANT PLANNING INSTRUMENTS

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

(a) Far North Queensland Regional Plan 2009-2031

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

(b) State Planning Policy

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

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

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

- 6.2.6 Low density residential zone code
- 8.2.4 Environmental significance overlay code
- 8.2.9 Regional infrastructure corridors and substations overlay code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or

probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Low density residential zone code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Environmental significance Overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Regional Infrastructure Corridors and Substations Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Landscaping Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Parking and Access Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Reconfiguring a Lot Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Works, Services and Infrastructure Code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

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

(f) Adopted Infrastructure Charges Notice

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1) 2022, a charge of \$20,260.00 will apply to each additional residential allotment created.

The \$20,260.00 charge was derived from infrastructure charges for the following four (4) trunk infrastructure networks:

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

Part 4.1(d) of Council's Adopted Infrastructure Charges Resolution (No. 1) 2022, a 20% discount will be applied to development charges where no connection to Council's reticulated sewer

network exists, and a further 20% discount where no connection to Council's reticulated water supply network exists, as is the case with the subject land.

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

The application proposes the creation of 2 additional residential lot.

$\$12,156.00 \times 2$ (lots) = **$\$24,312.00$**

REFERRALS

The application triggered referral to the Department of State Development, Infrastructure, Local Government and Planning (SARA - DTMR) as a Referral Agency.

That Department advised in a letter dated 22 June 2022 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Technical Services

PLANNING DISCUSSION

Nil

Date Prepared: 5 July 2022

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as delegate of Council, the application subject to the conditions listed in the report.

Dated the *5th* day of *July* 2022



BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS DELEGATE OF THE COUNCIL

APPROVED PLANS (ECM Doc Set ID 4089070)

Subdivision Plan - 1 into 3 Lots

24-26 Bilwon Road, Bibbohra (Lot 11 on MPH40232) Plan#R5-22, Dated 28.04.22

16°55'11"S 145°25'5"E

16°55'11"S 145°10"E



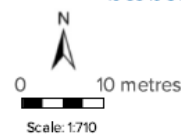
16°55'16"S 145°25'5"E

16°55'16"S 145°10"E



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ATTACHMENT 2

RA6-N



SARA reference: 2206-29391 SRA
 Council reference: RAL/22/0006
 Applicant reference: R5-22

22 June 2022

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

Attention: Carl Ewin

Dear Sir/Madam

SARA response—24-26 Bilwon Road, Biboohra

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 21 June 2022.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	22 June 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 – 1 Lots into 3 Lots
SARA role:	Referral Agency.
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017).
	Development application for a reconfiguration of a lot within 25m of a state-controlled road.

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

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2206-29391 SRA

SARA reference: 2206-29391 SRA
Assessment Manager: Mareeba Shire Council
Street address: 24-26 Bilwon Road, Biboohra
Real property description: Lot 11 on MPH40232
Applicant name: MFA & PS Wagstaff
Applicant contact details: C/- U&I Town Plan
PO Box 426
Cooktown QLD 4895
ramon@uitownplan.com.au

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 Sue Lockwood, Senior Planning Officer, on 40373222 or via email CairnsSARA@dssdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



John Irving
A/Manager (Planning)

cc MFA & PS Wagstaff, ramon@uitownplan.com.au
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

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 9, Division 4, Subdivision 2, Table 1 — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads 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.	The development must be carried out generally in accordance with the following plan: <ol style="list-style-type: none"> i. Subdivision Plan – 1 into 3 Lots, 24-26 Bilwon Road, Bibohra (Lot 11 on MPH40323), Plan: v2.0, prepared by U&I Town Plan, dated 17/06/22. 	At all times
2.	Any works on the land must not: <ol style="list-style-type: none"> ii. create any new discharge points for stormwater runoff onto the state-controlled road iii. interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road iv. cause surcharge of any existing culvert or drain on a state-controlled road v. reduce the quality of stormwater discharge onto the state-controlled road. 	At all times
3.	Direct access is not permitted between the Mulligan Highway and the subject site.	At all times

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.

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

- The location of the development does not create a safety hazard for users of the state-controlled road.
- With conditions the design and construction of buildings and structures does not create a safety hazard by distracting users of the state-controlled road.
- With conditions stormwater run-off or overland flow will not create or exacerbate a safety hazard for users of the state-controlled road.

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), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system