

8.3 DP ENERGY AUSTRALIA PTY LTD - RECONFIGURING A LOT - DIVIDING 1 LOT INTO 2 LOTS BY AGREEMENT (LEASE) - LOT 581 ON SP263756 - 11332 MULLIGAN HIGHWAY, DESAILLY - RAL/18/0019

Date Prepared: 9 October 2018

Author: Senior Planner

Attachments:

1. Proposal Plan [↓](#)
2. Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response - 23 August 2018 [↓](#)

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	DP Energy Australia Pty Ltd	ADDRESS	11332 Mulligan Highway, Desailly
DATE LODGED	18 June 2018	RPD	Lot 581 on SP263756
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Dividing 1 lot into 2 lots by agreement (lease)		

FILE NO	RAL/18/0019	AREA	41,160 hectares
LODGED BY	Cardno	OWNER	T & A Hatfield
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016 Cook Shire Council Planning Scheme 2017		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Nil		

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is impact assessable and no properly made submissions were received in response to public notification of the application.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

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

It is recommended that the application be approved in full with conditions.

OFFICER'S RECOMMENDATION

It is recommended that:

1. In relation to the following development application:

APPLICATION		PREMISES	
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and in accordance with the Planning Act 2016, 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 - Dividing 1 lot into 2 lots by agreement (lease)

(B) APPROVED PLANS:

• Plan/Document Number	• Plan/Document Title	• Prepared by	• Dated
• Q184063-002-GN-01 A	• Reconfiguring a Lot - Proposed Plan of Lease A in Lot 581 on SP263756	• Cardn o	• 14/05/2018

(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 Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.

2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, 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 Bushfire Management

A Bushfire Management Plan must be prepared for proposed Lease A to the satisfaction of Council's delegated officer. The future use of proposed Lease A must comply with the requirements of the Bushfire Management Plan at all times.

3.9 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) 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.

(b) Endorsement Fees

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

(c) 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.

(d) 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 bushfire management
- an approved bushfire management plan
- a registered easement over the subject site

(e) 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.

(f) 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, Manufacturing, Infrastructure and Planning response dated 23 August 2018.

(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

- Nil

THE SITE

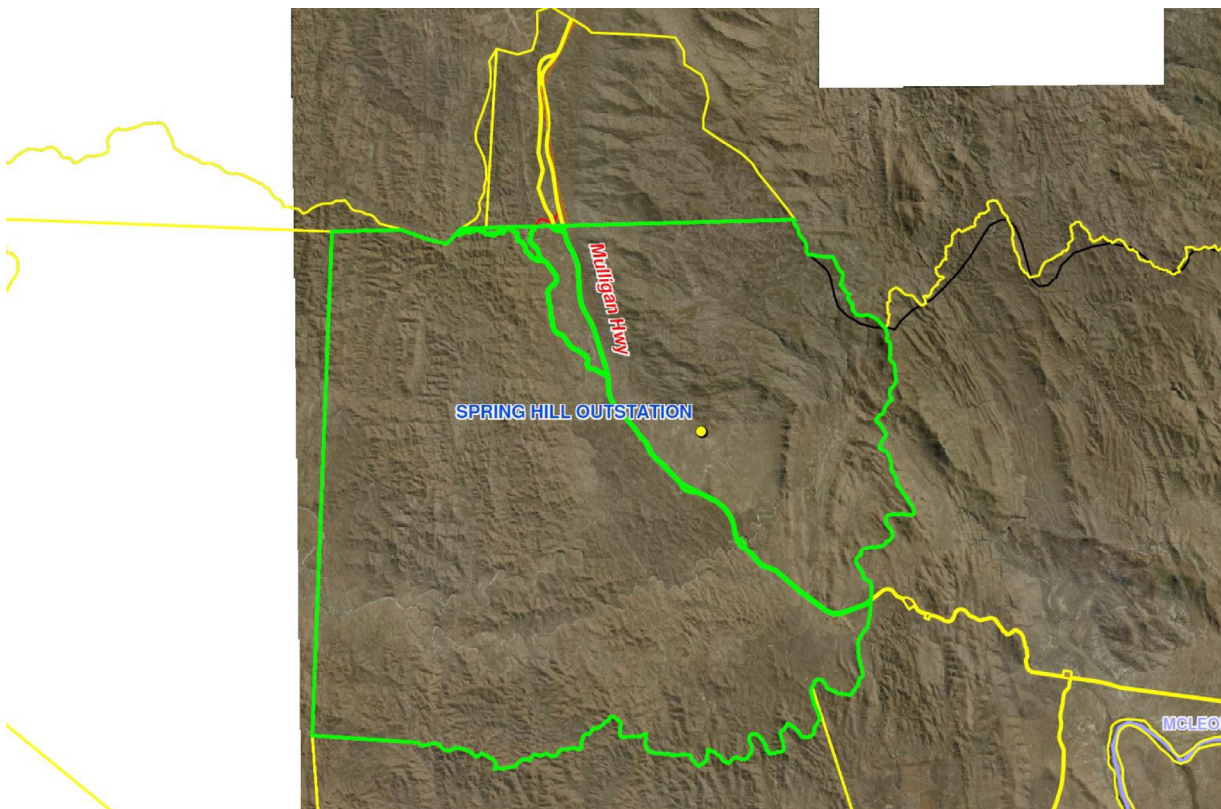
The subject site is Spring Hill Station, being land described as Lot 581 on SP263756, situated at 11,332 Mulligan Highway, Desailly, and located approximately 40 kilometres west of Mount Carbine.

Lot 581 has an area of 41,160 hectares with extensive road frontage to the Mulligan Highway.

The Mulligan Highway transects Lot 581 in a generally north to south direction. The Mulligan Highway is a State controlled road and is constructed to a two-lane bitumen sealed standard.

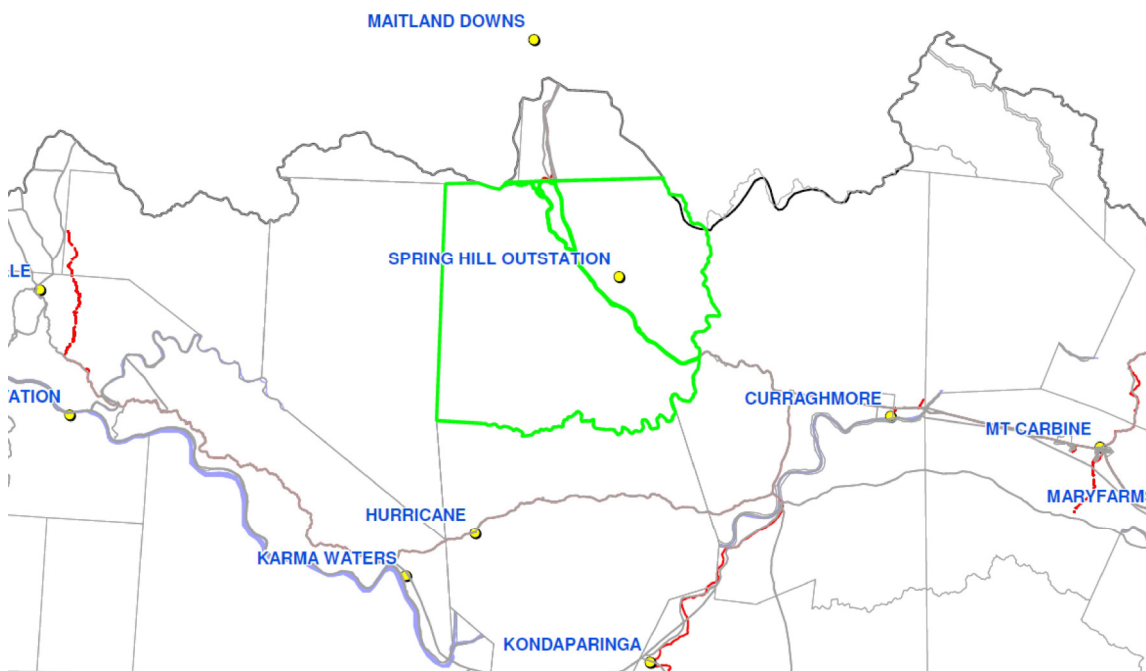
The existing land use is primary industry (grazing), supported by a dwelling house and multiple ancillary outbuildings which are located in a cluster outside the proposed development area. Most of the adjoining land is zoned Rural and currently used for grazing purposes.

Remnant vegetation remains over the majority of Lot 581. Multiple waterways are located across the subject land including the Kelly St George River and Spring Creek.



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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BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

The subject land extends across the Mareeba Shire Council and Cook Shire Council local government areas.

In accordance with Section 48(6) of the *Planning Act 2016*, the Minister of Planning was requested to determine which of the local governments would be the assessment manager for this application.

The Minister of Planning has determined the assessment manager to be Mareeba Shire Council.

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Dividing 1 lot into 2 lots by agreement (lease) in accordance with the plans shown in **Attachment 1**.

Proposed Lease A will comprise approximately 9,135.5 hectares of land in the north-eastern corner of Lot 581. This area is characterised by rugged hills/ranges which reach an elevation up to 850~900m AHD and approximately 400~500 metres above the Mulligan Highway.

Whilst not forming part of this application, it is understood that a future development application may be made for the development of a wind farm over Lease A.

A future access for proposed Lease A will be assessed by the Department of Transport and Main Roads when vehicle access is required.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site is:

- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:

Land Use Categories

- Rural Other

Natural Environment Elements

- Biodiversity Areas

Natural Resource Elements

- Mining Lease

	Infrastructure Elements
	<ul style="list-style-type: none"> • Major Electrical Infrastructure
	Transport Elements
	<ul style="list-style-type: none"> • B-double Route
	Other Elements
	<ul style="list-style-type: none"> • Major Watercourse
Zone:	Rural zone
	Agricultural land overlay
	Bushfire hazard overlay
	Environmental significance overlay
	Extractive industry overlay
Overlays:	Flood hazard overlay
	Hill and slope overlay
	Regional infrastructure corridors and substations overlay code
	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) Cape York Regional Plan 2014

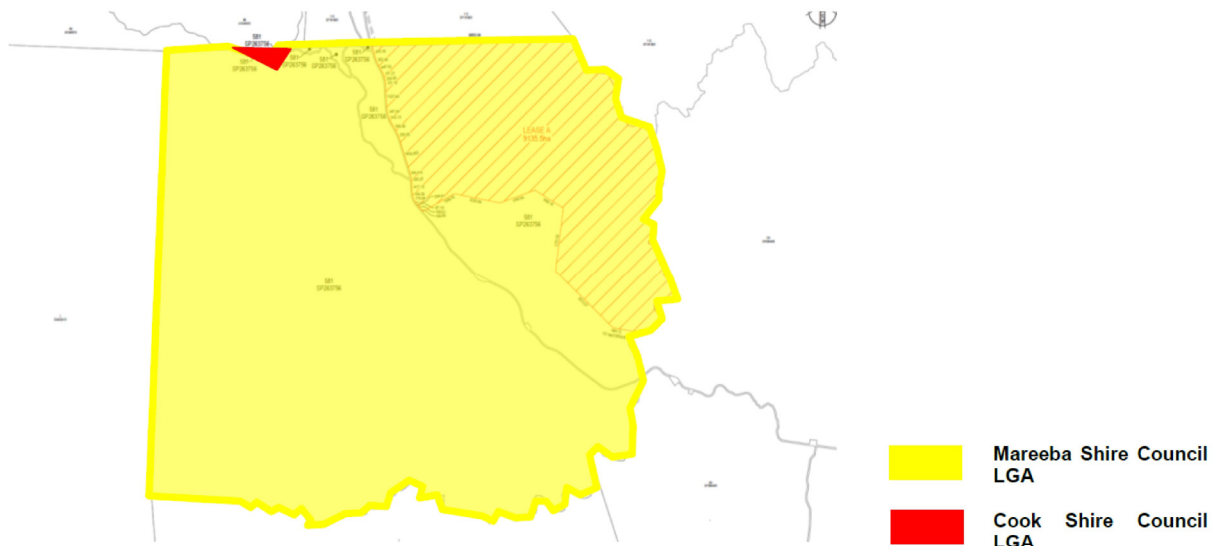
Separate assessment against this Regional Plan is not required because the Cook Shire Council Planning Scheme 2017 appropriately advances the Cape York Regional Plan 2014, as it applies to the planning scheme area.

(c) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme 2016 and the Cook Shire Council Planning Scheme 2017 appropriately integrate all relevant aspects of the SPP.

(d) Cook Shire Council Planning Scheme 2017

The small section of Lot 581 on SP263756 within the Cook Shire Council local government area is identified in red below.



The proposed development (indicated by hatched area) will have no impact on the land within the Cook Shire Council local government area.

(e) Mareeba Shire Council Planning Scheme 2016

Strategic Framework

3.3.11 Element - Rural areas

3.3.11.1 Specific outcomes

- (1) *Rural areas include rural activities and land uses of varying scale, consistent with surrounding land use, character and site conditions.*
- (2) *Land in rural areas is maintained in economically viable lot sizes, ensuring that regional landscape and rural production values are not compromised by fragmentation, alienation or incompatible land uses.*
- (4) *Other rural areas will be largely maintained in their current configuration, only being subdivided where viable holdings are achieved and the infrastructure base of rural operations including workers accommodation, airstrips and farm infrastructure is provided.*
- (6) *Agricultural areas will be retained in viable holdings and not fragmented or compromised by unsuitable development. Uses and development within this precinct will not cause land use conflicts with primary production or will ensure these conflicts are mitigated.*
- (7) *Rural areas preserve lands for future uses beyond the life of the planning scheme.*

3.7.2 Element - Rural and Agricultural land

3.7.2.1 Specific outcomes

- (1) Agricultural areas are preserved for the purpose of primary production and are protected from fragmentation, alienation and incompatible development.*
- (2) Other rural areas are maintained in economically viable holdings and continue to develop and expand their rural infrastructure and operations.*
- (5) Development ensures rural activities in all rural areas are not compromised by incompatible development and fragmentation.*

Comment

The subject land is in the broad-hectare rural area.

This application proposes a long term lease over approximately 9,135 hectares of Lot 581, however the lease will remain part of Lot 581.

Both the lease area and the remainder of Lot 581 are very large rural holdings in their own right and can continue to accommodate a range of rural uses.

The proposed lease area is intended to accommodate a potential wind farm development which is not a sensitive land use likely to conflict with rural uses.

The proposed development does not conflict with these specific outcomes.

Relevant Development Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard 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
Rural zone code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Flood hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Regional infrastructure corridors and substations overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Landscaping code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Reconfiguring a lot code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.

(e) Planning Scheme Policies

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

All relevant development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

(f) Additional Trunk Infrastructure Condition

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of the Planning Act 2016 allows Council to condition additional trunk infrastructure outside the PIA.

As the proposed development is for boundary realignment only, no infrastructure charges/contributions are payable.

REFERRALS

The application triggered a referral to the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) for assessment of its potential impacts on State transport corridors and future State transport corridors.

DSDMIP advised in a letter dated 23 August 2018 that they do not require any conditions to be attached to any approval (**Attachment 2**).

The application triggered a referral to Cook Shire Council due to a small part of Lot 581 on SP263756 being located within the Cook Shire Council local government area. As the proposed development will have no impact on the land within the Cook Shire Council local government area, no referral response was provided by Cook Shire Council.

Internal Consultation

Technical Services

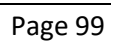
PUBLIC NOTIFICATION

The development proposal was placed on public notification from 13 September 2018 to 5 October 2018. The applicant submitted the notice of compliance on 8 October 2018 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

PLANNING DISCUSSION

Nil



RA6-N



Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

Our reference: 1807-6478 SRA
Your reference: RAL/18/0019
Applicants reference: Q184063

23 August 2018

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

Attention: Mr Brian Millard

Dear Sir/Madam

Referral agency response— no requirements(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 25 July 2018.

Applicant details

Applicant name:	DP Energy Australia Pty Ltd
Applicant contact details:	PO Box 1619 Cairns QLD 4870 urbi.musso@cardno.com.au

Location details

Street address:	8579 Mulligan Highway, Desailly
Real property description:	Lot 581 on SP263756
Local government area:	Mareeba Shire Council

Application details

Development permit	Reconfiguring a lot for Reconfiguring a Lot to divide the land into parts by agreement.
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Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.1.1 State transport corridors and future State transport corridors
- 10.9.4.2.3.1 State transport corridors and future State transport corridors

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

1807-6478 SRA

No Requirements

Under section 56(1)(a) of the *Planning Act 2016*, the department advises it has no requirements relating to this application.

Advice to the applicant

Under section 56(3) of the Act, the department offers advice about the application to the applicant—see Attachment 3.

A copy of this response has been sent to the applicant for their information.

For further information please contact Belinda Jones, Senior Planning Officer, on 40373239 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc DP Energy Australia Pty Ltd, urbi.musso@cardno.com.au

enc Attachment 1—Advice to the applicant

1807-6478 SRA

Attachment 3—Advice to the assessment manager

General advice	
1.	<p>The Department of Transport and Main Roads (DTMR) has not approved an access location for proposed Lease A via the Mulligan Highway.</p> <p>Under sections 62 and 33 of the Transport Infrastructure Act 1994, written approval is required from the Department of Transport and Main Roads to lawfully operate, construct, maintain and carry out road access works (including driveways) on a state-controlled road.</p> <p>If a road access is required via the Mulligan Highway, please contact the Department of Transport and Main Roads on 4045 7144 at the Cairns district office to make an application for an approval under section 62 of the <i>Transport Infrastructure Act 1994</i>. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>