

Development application—decision under delegated authority

Reconfiguring a lot – Boundary Realignment (2 into 2) on Lot 44 YL123 & Lot 6 on SP247043 at 600 Top Gurgeena Road, Gurgeena Qld 4625

Application reference: DA210019

1 Proposal summary

The applicant seeks to realign the boundaries at 600 Top Gurgeena Road, Gurgeena. The realignment is between Lot 44 YL123 & Lot 6 on SP247043.

The purpose of the realignment is to realign the boundaries two (2) into two (2), and will ensure that rural land use is maintained and provides for an improvement to the existing situation. The proposed lot 44 will have a total area of 128.6 ha and proposed lot 6 with an area of 84.12ha, the change will improve the existing situation by eliminating a lot made up of disparate parts.

- (1) The Council must assess the application against the assessment benchmarks, having regard to those matters set out in the *Planning Act 2016 and Planning Regulation 2017*, and decide the application in accordance with the decision rules in s60(2) and s60(5). The attached Statement of Reasons sets out the rationale for deciding to approve the application.

2 Recommendations

- (1) That the Council or its delegate, having regard to the matters set out in the attached Statement of reasons, decide the application under s60(2) of the *Planning Act 2016* by approving all of it subject to conditions.
- (2) That the Council notify the applicant of its decision in accordance with the attached Notice of decision.
- (3) That the Council publish the Notice of decision, including the Statement of reasons, on its website.

3 Decision

I concur with the above recommendations—please issue the Notice of decision as recommended.

10/06/2021


Jeff Miles
Planning & Environment Manager

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for Reconfiguring a Lot—Boundary Realignment (2 Lots into 2 Lots) at 600 Top Gurgeena Road, Gurgeena. On land described as Lot 44 YL123 & Lot 6 on SP247043.

The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The lot is in the Rural zone—in the (Intensive Agriculture Precinct) surrounded by both (Conservation Precinct) and (Intensive Agriculture Precinct) rural zoned land.
- (2) The application was deemed properly made on 1 June 2021. Council did not issue a confirmation notice as it was not necessary under s2.2 of the Development Assessment Rules.
- (3) The applicant stated that they agree to accept an information request, but the application included sufficient information and it was not necessary to issue an information request.
- (4) The following matters have been key considerations for the assessment manager—
 - (a) material about the application, including the proposal plans and the applicant's report;
 - (b) the North Burnett Regional Planning Scheme, to the extent relevant; and
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.2 Category of assessment

- (1) The proposal is identified as Code assessable against the *Reconfiguring a lot (boundary realignment) and associated operational work code*.
- (2) The proposal requires assessment against the following overlay codes—
 - (a) *Bushfire hazard overlay code*—SPP mapping identifies Lot 44 YL123 & Lot 6 on SP247043 as having potential impact buffer along the northern, north-western and south-western boundaries.
 - (b) *Natural features or resources overlays code*—both allotments are identified as being Class A and B Agricultural land and contains a small MSES area of Regulated Vegetation - Wildlife habitat (endangered or vulnerable) and Regulated vegetation (essential habitat).

4.3 Assessment benchmarks

- (1) A basic assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application. Such assessment confirms that the matter is relatively straightforward.

State planning instruments

- (1) *Regional plan*—the Wide Bay Burnett Regional Plan is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.
- (2) *State planning policy*—there are no State interest statements, policies or benchmarks relevant to this application¹. Due to the nature of the proposal and insignificant departure of

¹ When the planning scheme commenced on 3 November 2014 it appropriately integrated all aspects of the State Planning Policy then in force. The SPP that commenced on 3 July 2017 is quite similar, however the *Planning Act 2016* requires the assessment manager to assess the application against the SPP Part E (State Assessment Benchmarks) because the planning

the SPP from the planning scheme, compliance with the planning scheme is considered appropriate.

North Burnett Regional Planning Scheme

4.3.3.1 Reconfiguring a lot code

- (1) The proposal complies with the Reconfiguring a lot (boundary realignment) and associated operational work code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) The proposal complies with the intended use that being rural agricultural usage having regard to the zone in which the site is included and does not compromise the future development of adjoining premises.
 - (d) The proposed realignment (2 into 2) will not contribute to any loss or fragmentation of the productive land use of Agricultural Land.
 - (e) The realignment will not alter current drainage characteristics, nor are any earthworks proposed or anticipated as required will affect the realignment.
 - (f) the new lot layout would be compatible with other development in the locality considering the area, proportion and orientation.

4.3.3.2 Overlay codes

- (1) The proposal complies with the Bushfire hazard overlay code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code; and
 - (c) all lots would contain suitable building envelopes and vehicle access areas that are outside identified hazard areas.
- (2) The proposal complies with the Natural features or resources overlay code as –
 - (a) Agricultural land classification (class a and b) is identified on both lots. The proposed realignment avoids the loss or fragmentation of agricultural land, compliance with the planning scheme is considered appropriate.

4.4 Consultation

Internal stakeholder comments

- (1) No officers were invited or commented on the application, considering the minor nature of the proposal.

External stakeholder comments

- (1) The application did not require referral to Queensland Treasury (planning) under Schedule 9 or 10 of the *Planning Regulation 2017*.
- (2)

Other

- (1) The application did not require referral
- (2) The application did not require public notification and as such Council did not receive any submissions about the application.

scheme does not identify it as having been 'appropriately integrated' into the scheme.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
- (a) *Land use configuration*— all lots would be compatible with other development in the locality considering the area, proportion, orientation, and road frontage. The proposed boundary realignment will improve the existing situation by eliminating a lot made up of disparate parts. It is considered that the proposed development is generally consistent with the relevant planning provisions and will not have any significant impact on the current and future land use.
 - (b) *Access*— The two lots will have adequate frontage to a constructed road.
 - (c) *Overlays*—New boundaries are clear of identified MSES areas of regulated vegetation—wildlife habitat (endangered or vulnerable) and regulated vegetation (essential habitat).

4.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
- (a) must approve if the proposal complies with all the assessment benchmarks;
 - (b) may approve if the proposal does not comply with some assessment benchmarks;
 - (c) may impose conditions;
 - (d) may refuse the application only if the proposal does not comply with some of the benchmarks and conditions cannot achieve compliance;
 - (e) may give a preliminary approval for all or part of the proposal.

Section 60(2) of the Planning Act 2016 sets out the decision rules for code assessment.

- (2) Development conditions must—
- (a) be relevant to but not an unreasonable imposition; and
 - (b) be reasonably required as a consequence of the development.

Section 65 of the Planning Act 2016 limits the nature of approval conditions.

- (3) Having regard to the above matters and after assessing the application against the assessment benchmarks, the assessment manager decides to approve the application and impose conditions in accordance with the decision rules.