

Development application—decision under delegated authority

Operational Works for filling and excavation (other than a dam) – land restoration works comprising of erosion control structures within four (4) waterway / gullies at “Goondicum Station”, Goondicum Road, Yarrol on land described as Lot 2 on YL543—Code assessable development application under the *Planning Act 2016*

Application reference: DA210009

1 Proposal summary

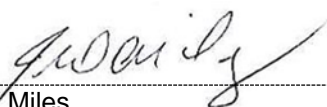
- (1) The applicant seeks a Development Permit for Operational Works at “Goondicum Station”, Goondicum Road, Yarrol Q (described as Lot 2 on YL543).
- (2) The stated objective of the application is for filling and excavation works (other than a dam) for land restoration works comprising of erosion control within four (4) waterway / gullies at “Goondicum Station”, Goondicum Road, Yarrol – sites 1 to 4.
- (3) The property is currently used for rural cattle grazing.
- (4) 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 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 Decision Notice.
- (3) That the Council publish the Decision Notice, including the Statement of reasons, on its website.
- (4) Council can no longer issue a charges notice in accordance with its Charges Resolution (No. 2) 2015 as it did not make a Local Government Infrastructure Plan by 1 July 2018.

3 Decision

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


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Jeff Miles

**Planning & Environment Manager
(Delegate of North Burnett Regional Council)**

17 August 2021
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Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for Operational Works for filling and excavation works (other than a dam) for land restoration works comprising of erosion control within four (4) waterway / gullies at "Goondicum Station", Goondicum Road, Yarrol Q on land described as Lot 2 on YL543. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) Council issued the Confirmation notice on 19 April 2021.
- (2) The application triggers referral to the State in relation to—
 - (a) Waterway Barrier Works
Under Schedule 10 of the *Planning Regulation 2017* the application requires referral for operational works that is constructing or raising waterway barrier works.
- (3) Council issued an information request on 28 April 2021.
- (4) The following matters have been key considerations for the assessment manager—
 - (a) material about the application, including the proposal plan/s and the applicant's report;
 - (b) the North Burnett Regional Planning Scheme 2014 v1.4 (amendments commenced 17 August 2020), to the extent relevant; and
 - (c) site suitability, including remnant vegetation; and,
 - (d) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.2 Category of assessment

- (1) The site is in the Rural (hinterland) zone and is surrounded by rural lots.
- (2) The proposal is identified as Code assessable against the filling and excavation code.
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) natural features and resources overlay code
 - (b) infrastructure overlay code.
- (4) In accordance with s60(2) of the *Planning Act 2016*, to the extent the application involves development that requires code assessment, the Council—
 - (a) must decide to approve the application to the extent the development complies with all of the assessment benchmarks;
 - (b) may decide to approve the application even if the development does not comply with some of the assessment benchmarks; and
 - (c) may, to the extent the development does not comply with some or all the assessment benchmarks, decide to refuse the application only if compliance cannot be achieved by imposing development conditions.

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 and it is not necessary to carry out a more detailed assessment for compliance.

4.3.2 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 application.

4.3.3 Filling and excavation code

- (1) The proposal complies with the filling and excavation code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it would maintain rural character and amenity through its limited scale and varied locations
 - (c) it would not increase risk or exposure to natural hazards and would not adversely impact any neighbouring properties.
 - (d) It complies with the performance outcomes of the code, specifically—
 - (i) It will reduce erosion through restoration of riparian areas along Goondicum Creek with includes stabilisation of erosion prone areas to reduce sediment loss
 - (ii) Transportation of material will be between 7am and 5pm Monday to Friday for approximately 4 weeks.

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

4.3.4 Overlay codes

- (1) The proposal complies with the *Infrastructure overlay code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically —
 - (i) as the stock route is currently closed and not in use.
- (2) The proposal complies with the *Natural features or resources overlays code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (i) Project sites 1, 2 and 3 are located within areas containing regulated vegetation in connected riparian areas. Vegetation required to be cleared was minimized during design by avoiding stable vegetated areas.
 - (ii) The proposed works will result in an overall improvement in environmental values at the project sites through the stabilisation of eroded banks and gullies and revegetation of disturbed areas. Supplementary revegetation within riparian areas up and downstream areas of the erosion
 - (iii) The proposal compliments the existing regenerative agricultural practices on the property which will assist in preventing further loss of agricultural land due to erosion.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services provided feedback specifically around traffic management practices and protecting degradation of Council road network.

4.4.2 External stakeholder comments

- (1) The application did require referral to DSDILGP under Schedule 10 of the *Planning Regulation 2017*. The application was referred to Department of State Development, Infrastructure, Local Government and Planning under Schedule 10, Part 6, Division 4, Subdivision 3 of the *Planning Regulation 2017* as it involves operational works that is constructing or raising waterway barrier works. The Department of Agriculture and Fisheries has provided conditions to be included in any development permit.

4.4.3 Public consultation

- (1) The application did not require public notification.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Compliance with the assessment benchmarks*—the proposal fully complies with the relevant assessment benchmarks;
 - (b) *Filling and excavation – management of works* – considering appropriateness and potential impact of use, it was concluded the use has the potential to impact on the local government road networks. Condition have been applied to help protect and if necessary restore the local road network after the works has completed.
 - (c) *Natural features and resources overlay code – ecological protection & erosion controls* – the area undergoing excavation and filling is to have the vegetation rehabilitated with species that do not pose a risk to the site’s ecological integrity.
 - (d) *Natural features and resources overlay code – agricultural land* – the works will protect and enhance the agricultural land and reduce fragmentation through reduction in erosion.

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.