

Development application—decision under delegated authority

Reconfiguring a Lot at Lots 1 & 3 Booyal Dallarnil Rd, Dallarnil on land described as Lot 1 on RP155152 and Lot 3 on RP838354—Code assessable development application under the *Planning Act 2016*

Application reference: DA210028

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot at 1 & 3 Booyal Dallarnil Rd, Dallarnil (described as Lot 1 on RP155152 and Lot 3 on RP838354);
- (2) The stated objective of the application is to configure the common boundary topographically to improve property management and remove a boundary traversing mapped regulated vegetation;
- (3) The current lots are used for grazing purposes, with Lot 1 also containing an existing dwelling towards the north of the western boundary;
- (4) Both existing Lots 1 and 3 are currently not complying with minimum lot size requirements at 277ha and 99.71ha respectively. The proposed realignment would result in Proposed Lot 21 exceeding the requirements for Rural (Intensive agriculture precinct) at 190ha, with Proposed Lot 20 remaining non-compliant for the size requirement for Rural (Hinterland) precinct at 187.6ha;
- (5) 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.


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

30 September 2021

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 at Lots 1 & 3 Booyal Dallarnil Rd, Dallarnil on land described as Lot 1 on RP155152 and Lot 3 on RP838354. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was deemed properly made on 13 July 2021;
- (2) Council issued the Confirmation notice on 6 August 2021;
- (3) Council issued a Notice of Missed Referral on 6 August 2021—
 - (a) The application triggered referral to Powerlink in relation to Electricity Infrastructure;
 - (b) Powerlink's Referral Agency Response was provided on 23 August 2021;
- (4) The application included sufficient information and it was not necessary to issue an information request;
- (5) 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 2014 v1.4 (amendments commenced 17 Aug 2021), to the extent relevant; and
 - (c) Flood hazard information, remnant vegetation and electricity infrastructure, where relevant.

4.2 Category of assessment

- (1) Proposed Lot 20 is in the Rural (Hinterland precinct) zone. Proposed Lot 21 would be split between the Rural (Intensive agriculture) and Rural (Hinterland precinct) zones. Lots are surrounded by Rural (Intensive agriculture) lots on the periphery of the North Burnett region.
- (2) The proposal is identified as Code assessable against the Reconfiguring a lot (boundary realignment) and associated operational works code.
- (3) The proposed reconfiguring also requires assessment against the following overlay codes—
 - (a) Bushfire hazard overlay code- State mapping identifies both lots as being a Bushfire prone areas;
 - (b) Flood hazard overlay code- Lot 20 is identified as being impacted by Overlay Map OM-FH-005;
 - (c) Infrastructure overlay code- Lot 21 is impacted by an Electricity transmission corridor on Overlay Map OM-INFR-005;
 - (d) Natural features or resources overlays code- State mapping identifies Matters of State Environmental Significance (MSES) on both lots.

4.3 Assessment benchmarks

- (1) An 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*—the State Planning Policy is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.

4.3.3 Reconfiguring a lot (boundary realignment) and associated operational work code

- (1) The proposal complies with majority of the outcomes in 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, specifically—
 - (c) the proposal would not result in an increase in non-compliance with the building envelope requirements of Table 6.3.1 or the Dwelling house code or Dual occupancy code;
 - (d) the reconfiguring results in an improvement of functionality in terms of land management as the boundary would be configured topographically;
 - (e) the existing common boundary traversing MSES mapped areas would be removed;
 - (f) both lots' proposed areas exceed 1ha and are large enough to accommodate a building envelope outside of easements, steep areas and areas of environmental significance;
 - (g) safe, lawful and practical access to Booyal-Dallarnil Rd is existing to both lots, and would not be impacted as no new lots or dwellings are proposed;
 - (h) no additional potential land use conflict would be introduced with the new boundaries;
 - (i) new boundaries would be distant from identified mapped MSES areas.
 - (j) Proposed Lot 20 contains appropriate infrastructure servicing to the existing dwelling;
 - (k) Proposed Lot 21, used for grazing, does not have any established structures on site. It has not been proposed that it is supplied with appropriate servicing. Given the lot size, sufficient space is available to establish these at the time of improvement. This has therefore been conditioned in order to comply with PO2.
- (2) Having regard to the extent of compliance with the outcomes, the assessment manager should regard the proposal as complying with the code.
- (3) Full details of the assessment against the overlay codes are attached as Attachment 1.

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 and acceptable outcomes of the code;
 - (c) as no new lots, or dwellings are proposed, the realignment would not compromise, alter or result in any material impact to Booyal Dallarnil Road. Nor would the existing access be altered;

- (d) existing dwelling would be wholly contained within proposed Lot 20;
 - (e) Referral Agency Response provided by Powerlink Queensland does not identify any major concerns with the development, and the applicable easements (D on RP126876 and A RP806921) would not be impacted and remain within proposed Lot 21 ;
 - (f) the lot sizes allow for more than adequate setbacks for building footprints from the mapped infrastructure easements as conditioned by the Referral Agency Response.
- (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 and acceptable outcomes of the code, specifically—
 - (c) existing boundary traversing mapped MSES areas would be removed;
 - (d) significant impacts on environmental values would be avoided with new boundary distant from identified MSES areas;
 - (e) the proposal does not propose establishing conflicting land uses;
 - (f) all natural features and resources are proposed to be retained and will not be impacted by the development;
- (3) 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 and acceptable outcomes of the code, specifically—
 - (c) adequate water storage is available on site;
 - (d) no buildings are proposed but the Lots would have more than sufficient area to establish structures in areas of the lowest hazard with appropriate setbacks from hazardous vegetation;
 - (e) proposal does not result in an increase in the number of lots or dwellings on either site.
- (4) The proposal complies with the *Flood hazard overlay code* as—
- (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance and acceptable outcomes of the code, specifically—
 - (c) significant portions of the lots are not mapped and would therefore maintain an appropriate level of flood immunity for future development;
 - (d) The existing flood free access to proposed Lot 20 would remain outside the hazard area;
 - (e) no filling or excavation is proposed;
 - (f) risks are not increased as no new lots or dwellings are proposed.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services did not provide any comments on the development.

4.4.2 External stakeholder comments

- (1) The application did not require referral to Chief Executive under Schedule 10 of the *Planning Regulation 2017* for regulated vegetation as the proposed boundary was distant from mapped MSES areas;

- (2) The application did not require referral to the Chief Executive under Schedule 10 of the *Planning Regulation 2017* for state infrastructure impacts as no new lots are proposed;
- (3) The application required referral to Powerlink Queensland under Schedule 10, Part 9, Division 2, Table 1 of the *Planning Regulation 2017*. The Referral Agency Response is included in Attachment 2 and did not have any major concerns or comments regarding the proposal.

4.4.3 Public consultation

- (1) The application did not require public notification.
- (2) The council did not receive any submissions.

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 is fully compliant with the relevant assessment benchmarks;
 - (b) *Land use configuration*—both lots would be compatible with other land uses in the locality. Configuring the boundary topographically would be sympathetic to local catchment areas ensuring permanent water supply to both lots and optimising future property management particularly along fence lines;
 - (c) *Overlays*—
 - New boundaries are clear of identified MSES areas Regulated vegetation: Category R and Category B
 - The proposed lots contain significant areas free of flood and bushfire hazard that would allow development of future dwellings outside these areas;
 - The proposed realignment is not anticipated to have any effect on the identified major electricity infrastructure in accordance with the SPP mapping, and a Referral Agency Response has been provided indicating no major concerns.

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.

Attachment 1

Detailed overlay code assessments

Attachment 2

Referral Agency Response - Powerlink