

Development application—decision under delegated authority

Reconfiguring a Lot at 360 Jankes Rd, Brovinia on land described as Lot 17 on NT369—Code assessable development application under the *Planning Act 2016*

Application reference: DA210047

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot at 360 Jankes Rd, Brovinia (described as Lot 17 on NT369).
- (2) The stated objective of the application is to create two more regular shaped lots.
- (3) The site is used for rural activities. The site accommodates informal buildings/structure. All improvements would be fully contained within approved Lot 1.
- (4) Proposed lots 1 and 17 will have an area of 682ha and 6649ha respectively. All proposed lots meet the minimum area and road frontage requirements in the planning scheme.
- (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.



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Lyn McLeod
Development Officer
(Delegate of North Burnett Regional Council)

22 December 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 Reconfiguring a Lot at 360 Jankes Rd, Brovinia on land described as Lot 17 on NT369. 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 04 November 2021..
- (2) Council issued the Confirmation notice on 10 November 2021.
- (3) The application triggers referral to Powerlink in relation to—
 - (a) infrastructure—electrical assets
- (4) The application included sufficient information and it was not necessary to issue an information request.
- (5) A missed referral notice was issued to the applicant on 25 November 2021. Powerlink's response was received on 7 December 2021.
- (6) 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 August 2020), 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 site is in the Rural zone (Hinterland Precinct) and is surrounded by other rural lots.
- (2) The proposal is identified as Code assessable against the purpose of the Rural zone code as well as the Reconfiguring a lot (except excluded reconfiguration) code, and Infrastructure and operational work code.
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) Bushfire hazard overlay code;
 - (b) Flood hazard overlay code;
 - (c) Natural features or resources overlays 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) An assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application.
- (2) Such assessment is a balanced one, 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 Purpose of the Rural zone code

- (1) The proposal complies with the Rural zone code as—
 - (a) it achieves the purpose and overall outcomes of the zone code by;
 - (i) providing space for rural uses and activities both now and in the future; and
 - (ii) maintaining the capacity of land for rural uses and activities by protecting and managing significant natural resources and processes

4.3.4 Reconfiguring a lot (except excluding reconfiguration) code

- (1) The proposal complies with the Reconfiguring a lot (except excluded reconfiguration) 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 lots would be more regular in shape;
 - (d) both lots' proposed areas and frontages exceed the minimum 400ha and 200m road frontage requirements prescribed by Table 9.4.10 and;
 - (e) the reconfiguration is suited to the likely future development in the locality and works to protect the natural features of the site;

4.3.5 Infrastructure and operational work code

- (1) The proposal complies with the *Infrastructure and 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) suitable on-site infrastructure would be provided to meet the anticipated needs of users;
 - (d) given the size of the lots and the site locating outside the water service area, it would be appropriate for Lot 1 and 17 to be supplied by on-site means.
 - (e) similarly, it would be appropriate for Lot 1 and 17 to treat and dispose of its effluent and other wastewater on-site given no reticulated sewerage infrastructure exists near the site and the size of the lots is adequate.
 - (f) Technical Services did not advise of any concerns for existing stormwater drainage nor required upgrades to the local road network;
 - (g) Lot 1 and 17 will be required to be connect to on-site electrical generation.
 - (h) Lot 1 and 17 will not be required to be connected to fixed-line telecommunications with current access to the nbn broadband access network by fixed wireless connection deemed reasonable and aligned with general community expectations.

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.

4.3.6 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;

- (c) the reconfiguration would not compromise site access and does not involve building work or material change of use.
- (2) 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 outcomes of the code;
 - (c) the reconfiguration would not compromise site access and does not involve building work or material change of use.
- (3) 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—
 - (c) significant impacts on environmental values would be avoided with new boundaries aligned with site features.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services provided comment on the development in relation to water and wastewater expectations for the new lots and advised there is no concern for the development.

4.4.2 External stakeholder comments

- (1) The application did not require referral to DSDMIP under Schedule 10 of the *Planning Regulation 2017*.

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 is fully compliant with the relevant assessment benchmarks;
 - (b) *Lot configuration*—both lots would be more regular in shape and be compatible with other development in the locality considering the area, orientation and constraints;
 - (c) *Infrastructure*—suitable connections and access have been conditioned and;
 - (d) *Hazards*—the reconfiguration would not alter existing hazards with all structures located to mitigate associated risks.

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.