

Development application—decision under delegated authority

Reconfiguring a Lot – Boundary Realignment (2 into 2 lots) Mount Eagle Road, Eidsvold on land described as Lot 53 and 54 on RW194—Code assessable development application under the *Planning Act 2016*

Application reference: DA220001

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot—Boundary Realignment (2 into 2 Lots) at Mount Eagle Road, Eidsvold (described as Lot 53 and 54 on RW194).
- (2) The stated objective of the application is to realign the boundary between lot 53 and 54 on RW194 along an existing fence line in the natural gully for the creation of proposed Lot 53 with an approximate area of 958.4ha and proposed lot 54 with an approximate area of 1204ha
- (3) The site is currently unimproved with no dwelling house or other buildings/structures..
- (4) The proposed Lots 53 and 54 will have an area of 958.4ha and 1204ha respectively. All proposed lots will 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.



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

17/02/2022

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 into 2 lots) Mount Eagle Road, Eidsvold on land described as Lot 53 and 54 on RW194. 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 31 January 2022.
- (2) Council issued the Confirmation notice on 2 February 2022.
- (3) The application did not triggered any referrals.
- (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) the extent of remnant vegetation;
 - (d) bushfire hazard;
 - (e) the SPP, the extent that it is not appropriated 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 Reconfiguring a lot (Boundary realignment) and associated operational work code.
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) Bushfire hazard overlay code;
 - (b) Infrastructure code; and
 - (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) 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*— 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 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 lots would be regularly configured with both lots exceed the minimum 400ha area and 200m road frontage;
 - (d) Both lots have a suitable building area free from any site constraints including most natural hazards;
 - (e) still provide for existing and future rural uses and activities;
 - (f) a safe, lawful and practical access to Mount Eagle Road, Eidsvold is existing for lot 53 and 54;
 - (g) the new boundary is along the existing fence lines and natural land features;
 - (h) Significant natural features and resources of the site are to be maintained and the reconfiguration would not result in serious environmental harm;
 - (i) The lots would not introduce conflicting land uses or impact sensitive land uses;
 - (j) The proposal will not alter current drainage characteristics, nor are any earthworks proposed or anticipated as required

4.3.4 Overlay codes

- (1) The proposal complies with the *Bushfire 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—
 - (c) No existing structures or buildings on the premises, future structures would be required to be compliant to the Bushfire Hazard Code.
 - (d) Cleared access tracks and fire break trails are existing throughout the site which would be available for use by emergency vehicles
- (2) 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 for stock routes, specifically—
 - (c) It does not propose development that would compromise the network's primary use or capacity for stock movement..
- (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) Though containing regulated vegetation, the size of the proposed lots means that the application is not referable to the Chief Executive for this matter;
 - (d) significant impacts on environmental values would be avoided and all natural features and resources are proposed to be retained and will not be impacted by the development;
 - (e) there are no wetland values on site;
 - (f) the development does not propose introduction of non-native species;
 - (g) the site is not located within an ecological corridor;
 - (h) the site is not within a KRA or LRA area;
 - (i) the proposal does not propose conflicting land uses; and

- (j) the new boundary is topographically located ensuring catchments are not fragmented.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services did not provide any comments or concerns on 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 compliant with the relevant overall and performance outcomes of the applicable assessment benchmarks;
 - (b) *Land use configuration*—both lots would be compatible with other land uses in the locality. Both lots would significantly exceed the minimum lot size requirement for the zone. The common boundary of proposed lots would be topographically located, which would be sympathetic to localised catchments.

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.