

# Development application—decision under delegated authority

Reconfiguring a Lot at 182 & 100 Mundowran Road, Mundowran on land described as Lot 2 on SP287822 & Lot 62 on YL136—Code assessable development application under the *Planning Act 2016*

Application reference: 44-19

## 1 Proposal summary

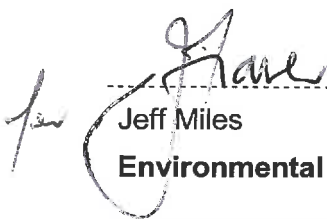
- (1) The applicant seeks a Development Permit for Reconfiguring a Lot at 182 and 100 Mundowran Road, Mundowran (described as Lot 2 on SP287822 and Lot 62 on YL136 respectively).
- (2) The stated objective of the proposal is to excise the residential improvements from the balance area and provide a larger lot more capable of supporting rural activity. The additional area to the south-east of proposed Lot 2 is for a future shed being the only suitably level area.
- (3) The Council must assess the application against the assessment benchmarks and 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.

  
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Jeff Miles

**Environmental Services Manager**

On behalf of Gary Rinehart

**Chief Executive Officer**

27/03/2019

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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 182 and 100 Mundowran Road, Mundowran on land described as Lot 2 on SP287822 and Lot 62 on YL136 respectively. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

### 4.1 Facts and circumstances

- (1) The site is in the Intensive agricultural precinct of the Rural zone and is surrounded by other Rural zone lots in the same precinct.
- (2) The application fee was paid on 8 March 2019 and the application lodged on 11 March 2019, with the application taken to be properly made on 11 March 2019.
- (3) The application does not trigger any referrals. While the south-east part of Lot 62 on YL136 is peripherally within 25m of a State transport corridor (Burnett Highway), the total number of lots and the total number of lots adjacent to the Burnett Highway will not increase, nor will there be a new or changed access to the Burnett Highway (refer Schedule 10, Part 9 Division 4 Subdivision 2 Table 1, Item 1 of the *Planning Regulation 2017*).
- (4) In accordance with section 2.2 of the Development Assessment (DA) Rules, Council was not required to give a Confirmation notice.
- (5) The application included sufficient information in the application and it was not necessary to issue an information request.
- (6) The giving of a Decision Notice ends the Confirmation period under section 21.2 of the DA Rules which was otherwise due to finish on 25 March 2019.
- (7) The following matters have been key considerations for the assessment manager—
  - (a) material about the application, including the proposal plan and the applicant's report;
  - (b) the SPP, to the extent that it is not appropriately integrated in the planning scheme;
  - (c) development approvals and the lawful use of adjacent land.

### 4.2 Category of assessment

- (1) The proposed reconfiguring is Code assessable requiring assessment against the *Reconfiguring a lot (boundary realignment) and associated operational work code*.
- (2) The site is partly within scheme overlays and is therefore also assessable against the following overlay codes—
  - (a) *Bushfire hazard overlay code*;
  - (b) *Infrastructure overlay code*; and
  - (c) *Natural features or resources overlays code*.

### 4.3 Assessment benchmarks

#### 4.3.1 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.
- (3) *State planning policy*—the State's interests were relevant to deciding this application to the following extent<sup>1</sup>—

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<sup>1</sup> When the planning scheme commenced on 3 November 2014 it appropriately integrated all aspects of the State Planning

- (a) *Agriculture*—the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in protecting Agricultural Land Classification Class A and B land for sustainable agriculture; the proposed development complies with the assessment benchmarks;
- (b) *Biodiversity*— the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in avoiding significant impacts on matters of environmental significance; the proposed development complies with the assessment benchmarks;
- (c) *Natural hazards, risk and resilience*—the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in avoiding or mitigating risks associated with natural hazards to protect people and property; the assessment benchmarks do not apply to the subject site.

#### 4.3.2 Zone code

- (1) Table 5.6.1 of the planning scheme does not require assessment against the *Rural zone code*.

#### 4.3.3 Overlay codes

- (1) As only the south-eastern extremity of Lot 62 is within a bushfire hazard area, distant from any new boundaries, assessment of the *Bushfire hazard overlay code* is not considered relevant.
- (2) As only the south-eastern extremity of Lot 62 is within 25m of an identified road corridor, with the dwelling houses existing and distant from the Burnett Highway, assessment of the *Infrastructure overlay code* is not considered relevant.
- (3) The proposal complies with the Planning Scheme 8.2.4 *Natural features or resources overlays code* as most of the site's agricultural land will be consolidated, not fragmented, to create a single larger lot more capable of efficient rural production.

#### 4.3.4 Other development codes

- (1) The proposed realignment complies with the Planning Scheme 9.4.4 *Reconfiguring a lot (boundary realignment) and associated operational work code* as—
  - (a) both new lots exceed 1.0ha in area;
  - (b) the approval requires compliant building setbacks to new boundaries;
  - (c) each new lot supports existing residential improvements with the dwelling house having existing water supply, on-site wastewater disposal, reticulated electricity and telecommunications;
  - (d) each new lot has its own existing access and driveway to Mundowran Road;

### 4.4 Consultation

#### 4.4.1 Internal stakeholder comments

- (1) The nature and scale of the proposed realignment was not considered to warrant the seeking of any officer's comments.
- (2) No officers have provided any views about the proposal.

#### 4.4.2 Referral agency response

- (1) The application did not require referral.

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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.

## 4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
- (a) the consolidation, not fragmentation, of agricultural land;
  - (b) no increased potential in risk from natural hazard;
  - (c) no increased potential for traffic disturbance from Burnett Highway;
  - (d) each new lot supports existing residential improvements that are already serviced by existing infrastructure connections and accesses to Mundowran Road without need for alteration.

*These matters have been derived from the assessment benchmarks.*

## 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.

Table 9.4.7—Car parking and service vehicle provision rates

Use	Car parking spaces rate	Service vehicle provision rate
industry		
Residential care facility	One (1) for every 10 occupants	None specified
Resort complex	None specified	None specified
Retirement facility	One (1) space per dwelling, plus one (1) visitor space for every five (5) dwellings	None specified
Roadside stall	1 space per 40m <sup>2</sup> of total use area	Nil
Rooming accommodation	Inside the Centre Zone—one (1) space per ten (10) beds), or otherwise—one (1) space per five (5) beds	None specified
Rural industry	Two (2) spaces plus one (1) space per 100m <sup>2</sup> of GFA	None specified
Rural workers' accommodation	One (1) space per two (2) beds	Nil
Sales office	Two (2) spaces per display dwelling	Nil
Service industry	One (1) space per 100m <sup>2</sup> GFA	1 SRV
Service station	Two (2) spaces plus one (1) space per 25m <sup>2</sup> GFA	1 AV
Shop	Within the Centre Zone—nil, or otherwise one (1) space per 25m <sup>2</sup> of GFA	None specified
Shopping centre	One (1) space per 50m <sup>2</sup> of GFA	None specified
Short-term accommodation	One (1) space per unit plus 50 per cent of the requirement for each ancillary use	1 SRV
Showroom	One (1) space per 40m <sup>2</sup> GFA	None specified
Special industry	None specified	None specified
Substation	None specified	None specified
Telecommunications facility	None specified	None specified
Theatre	None specified	None specified
Tourist attraction	None specified	None specified
Tourist park	One (1) per dwelling unit site, plus one (1) visitors space for every ten (10) unit sites	1 SRV
Transport depot	None specified	None specified
Utility installation	Nil	Nil
Veterinary services	One (1) space per 40m <sup>2</sup> of GFA	None specified
Warehouse	1 space per 70m <sup>2</sup> GFA	1 SRV
Wholesale nursery	One (1) space per 100m <sup>2</sup> of total use area	1 HRV
Winery	One (1) space per 25m <sup>2</sup> of retail GFA plus three (3) spaces per 100m <sup>2</sup> of manufacturing GFA	None specified

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

### 9.4.4.1 Application

This code applies to assessable development for reconfiguring a lot involving rearranging the boundaries of a lot, and the operational work associated with such reconfiguring to the extent identified in Part 5 Tables of assessment.

#### 9.4.4.2 Purpose and overall outcomes

- (1) The purpose of the Reconfiguring a lot (boundary realignment) and associated operational work code is to ensure that reconfigured lots are appropriate to their intended or likely use and minimise adverse impacts on the environment.
- (2) The purpose of the Reconfiguring a lot (boundary realignment) and associated operational work code will be achieved through the following overall outcomes—
  - (a) lots are suitable for the intended use, or probable uses having regard to the zone in which the site is included;
  - (b) the reconfiguration avoids creating access to lots that is likely to create or exacerbate a traffic problem or adversely affect the function of a road;
  - (c) lots do not compromise the future development of adjoining premises;
  - (d) non-trunk infrastructure services the lots to a suitable level that meets the anticipated needs of users;
  - (e) the reconfiguration protects environmental values, including areas and sites of conservation significance, cultural heritage, and scenic amenity.

#### 9.4.4.3 Performance and acceptable outcomes

**Table 9.4.8—Reconfiguring a lot (boundary realignment) and associated operational work code: Assessable development POs and AOs**

Performance outcomes (PO)	Acceptable outcomes (AO)
<b>Lot design</b>	
<p><b>PO1</b> The reconfiguring results in functional and practical lots having regard to their likely use and the purpose for the zone in which the land is situated.</p> <p>AO1.1 Compliant setbacks required by approval. Buildings existing on each lot.</p> <p>AO1.2 Compliant. Min lot size 8.4ha.</p> <p>AO1.3 Not applicable. No rear lots proposed.</p> <p>AO1.4 Compliant. Refer response to AO1.1.</p> <p>AO1.5 Not applicable.</p> <p>AO1.6 Not applicable.</p>	<p><b>AO1.1</b> New boundaries do not increase any non-compliance with the building envelope requirements in—</p> <ol style="list-style-type: none"> <li>(a) Table 6.2.9—Building envelope criteria (for buildings other than Class 1 or 10): All zones; or</li> <li>(b) the Dwelling house code or Dual occupancy code (for Class 1 or 10 buildings).</li> </ol> <p><b>AO1.2</b> If in the Rural zone, no proposed lot is less than 1.0 hectares in area.</p> <p><b>AO1.3</b> The reconfiguring would not result in more than one rear lot behind a standard lot.</p> <p><b>AO1.4</b> The reconfiguration ensures that any existing buildings and structures are setback to any new property boundary in accordance with—</p> <ol style="list-style-type: none"> <li>(a) Table 6.2.9—Building envelope criteria (for buildings other than Class 1 or 10): All zones; or</li> <li>(b) the Dwelling house code or Dual occupancy code (for Class 1 or 10 buildings).</li> </ol> <p><b>AO1.5</b> The configuration of lots enables—</p> <ol style="list-style-type: none"> <li>(a) proposed buildings and structures to avoid easements, such as easements for trunk sewer lines;</li> <li>(b) the construction of buildings and structures where they avoid existing or planned infrastructure.</li> </ol> <p><b>AO1.6</b> No new boundary is created where the existing slope of the land is 15 per cent or</p>

**Table 9.4.8—Reconfiguring a lot (boundary realignment) and associated operational work code: Assessable development POs and AOs**

Performance outcomes (PO)	Acceptable outcomes (AO)
	greater.
<b>Infrastructure</b>	
<p><b>PO2</b> Lots have appropriate non-trunk infrastructure.</p> <p>AO2.1 Application states both dwellings on have rainwater tanks greater than 45000 L capacity.</p> <p>AO2.2 Application states both dwellings are serviced by on-site wastewater disposal systems.</p> <p>AO2.3 &amp; 2.4 Application states both lots are serviced by reticulated electricity supply and has access to telecommunications network.</p>	<p><b>AO2.1</b> Either—</p> <ul style="list-style-type: none"> <li>(a) for premises within a reticulated water area, each lot has a connection to the reticulated water supply system; or</li> <li>(b) for premises outside a reticulated water area, each lot is provided with an alternate potable water supply source (e.g. rainwater, bore water), with a minimum storage capacity in accordance with the following—                             <ul style="list-style-type: none"> <li>(i) residential premises – 45,000 litres; and</li> <li>(ii) other premises – 25,000 litres.</li> </ul> </li> </ul> <p><b>AO2.2</b> Either—</p> <ul style="list-style-type: none"> <li>(a) for premises within a sewered area, each lot has a connection to the sewerage service; or</li> <li>(b) for premises outside a sewered area, each lot provides for an effluent treatment and disposal system in compliance with the <i>Plumbing and Drainage Act 2002</i>.</li> </ul> <p><b>AO2.3</b> Either—</p> <ul style="list-style-type: none"> <li>(a) in all zones other than the Rural zone and the Recreation and open space zone, each lot has a connection to an electricity supply network; or</li> <li>(b) each lot in the Rural zone or Recreation and open space zone has on-site electricity generating infrastructure.</li> </ul> <p><b>AO2.4</b> Each lot has access to a telecommunications network.</p>
<b>Access</b>	
<p><b>PO3</b> Lots incorporate suitable vehicular and pedestrian access having regard to the zone and the context of the land.</p> <p>AO3.1 Application states existing accesses will be used. Further discussion with applicant confirmed each lot has its own access within its own boundaries.</p> <p>AO3.2 to AO3.4 Not applicable.</p>	<p><b>AO3.1</b> Each lot has lawful, safe and practical access to the existing road network via—</p> <ul style="list-style-type: none"> <li>(a) direct road frontage; or</li> <li>(b) an access strip (for a rear lot); or</li> <li>(c) an access easement.</li> </ul> <p><b>AO3.2</b> Where access to a lot is proposed via an access strip or easement, the access strip or easement—</p> <ul style="list-style-type: none"> <li>(a) has a minimum width of—                             <ul style="list-style-type: none"> <li>(i) six metres in all zones except the Industry zone; or</li> <li>(ii) eight metres in the Industry zone; and</li> </ul> </li> <li>(b) is designed and constructed in accordance with the—</li> </ul>

**Table 9.4.8—Reconfiguring a lot (boundary realignment) and associated operational work code: Assessable development POs and AOs**

Performance outcomes (PO)	Acceptable outcomes (AO)
<p>AO3.5 Refer response to AO3.1. Access to proposed Lot 2 was constructed pursuant to Condition 6 of preceding subdivision approval 0001-16.</p>	<p>(i) Infrastructure and operational work code; and</p> <p>(ii) SC6.2 Design and construction standards for non-trunk infrastructure works.</p> <p><b>AO3.3</b> The maximum length of an access strip or easement is 50 metres.</p> <p><b>AO3.4</b> The gradient of an access strip or easement does not exceed any maximum grade stated in SC6.2 Design and construction standards for non-trunk infrastructure works.</p> <p><b>AO3.5</b> A driveway crossover to each lot is designed and constructed in accordance with the—</p> <p>(a) Infrastructure and operational work code; and</p> <p>(b) SC6.2 Design and construction standards for non-trunk infrastructure works.</p>
<b>Stormwater</b>	
<p><b>PO4</b> Reconfiguring appropriately accommodates stormwater, having regard to the zone and the context of the land.</p> <p>AO4.1 Not applicable.</p> <p>AO4.2 &amp; AO4.3 Not applicable.</p>	<p><b>AO4.1</b> For land intended to be used for urban purposes—an erosion and sediment control plan prepared by a suitably qualified person and implemented on-site guides design, installation, construction, operation, monitoring and maintenance of erosion and sediment control practices in accordance with the <i>Urban Stormwater Quality Planning Guidelines 2010</i>.</p> <p><b>AO4.2</b> Filling or excavation on the premises does not exceed a maximum of one-metre vertical change in natural ground level at any point.</p> <p><b>AO4.3</b> Following filling or excavation—</p> <p>(a) the site is self-draining and has a crossfall of 1 in 100; and</p> <p>(b) surface water flow is directed away from neighbouring properties or discharged to a lawful point of discharge.</p>

## 9.4.5 Reconfiguring a lot (except excluded reconfiguration) code

### 9.4.5.1 Application

This code applies to assessable development for reconfiguring a lot, other than excluded reconfiguration, to the extent identified in Part 5 Tables of assessment.

### 9.4.5.2 Interpretation

For the purposes of this code “excluded reconfiguration” means—

- (1) reconfiguring a lot to which schedule 12 of the Regulation applies<sup>51</sup>; and

<sup>51</sup> Refer 9.2.2 Reconfiguring a lot (subdividing 1 lot, other than a rear lot, into 2 lots) code in this planning scheme and schedule 12 of the Regulation.