

Development application—decision under delegated authority

Reconfiguring a lot – Boundary Realignment (1 into 3) on Lot 1 RP840291 at 1270 Deems Road, Monogorilby

Application reference: 167/20

1 Proposal summary

- (1) The applicant seeks to realign the boundaries at 1270 Deems Road, Monogorilby on land described as Lot 1 on RP840291.
The purpose of the realignment is to subdivide Lot 1 on RP840291 into three, with two lots with areas in excess of 400 hectares, and the balance of approximately 1950 hectares. This proposal will not affect the present rural usage and activities and meets the minimum area requirement in the Rural , Hinterland Precinct of 400ha.
- (2) 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 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.


Jeff Miles
Planning & Environment Manager

20/08/2020
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 (1 Lot into 3 Lots) at 1270 Deems Road, Monogorilby on land described as Lot 1 on RP840291.

. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The lot is in the Rural zone—in the Hinterland Precinct surrounded by both Rural zone—Conservation Precinct and Rural zone—Hinterland Precinct.
- (2) The application was deemed properly made on *12th August 2020*. Council did not issue a confirmation notice as it was not necessary under s2.2 of the Development Assessment Rules.
- (3) The applicant stated that they agree to accept an information request, but the application included sufficient information and it was not necessary to issue an information request.
- (4) 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, 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 proposal is identified as Code assessable against the *Reconfiguring a lot (boundary realignment) and associated operational work code*.
- (2) The proposal requires assessment against the following overlay codes—
 - (a) *Bushfire hazard overlay code* as State mapping identifies Lot 1 as locating within a potential impact buffer of a bushfire hazard area with both Medium and High Bushfire prone areas of potential bushfire intensity.
 - (b) *Natural features or resources overlays code* as MSES – Regulated Vegetation categories B,C & R are identified and located to the north-east of Lot 1. Significant impacts on the environmental values would be avoided as new boundaries would be sufficiently clear of identified MSES areas.
 - (c) *Flood hazard overlay code*- as the site is partly within a flood hazard area; Each lot has available suitable building envelope outside the flood hazard area.

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.

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 application¹. Due to the nature of the proposal and insignificant departure of

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

the SPP from the planning scheme, compliance with the planning scheme is considered appropriate.

North Burnett Regional Planning Scheme

4.3.3.1 Reconfiguring a lot 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;
 - (c) The proposal complies with the intended use that being rural usage and activities, generally used for cattle grazing
 - (d) The proposal of 1 into 3 will satisfy the required minimum area of 400 hectares. Two of the lots with 400 and 490ha with the balance being approximately 1950ha
 - (e) The site is not encumbered by easements nor are any proposed or anticipated as required.
 - (f) The realignment will not alter current drainage characteristics, nor are any earthworks proposed or anticipated as required to effect the realignment.
 - (g) the new lot layout would be compatible with other development in the locality considering the area, proportion and orientation;

4.3.3.2 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; and
 - (c) The Dwelling on lot 1 is well clear of any boundaries and well separated from any timbered areas. The remaining land is identified in the Bushfire prone areas, both these parcels do not have houses and are used for grazing purposes.

4.3.3.3 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;

4.4 Consultation

Internal stakeholder comments

- (1) No officers were invited or commented on the application, considering the minor nature of the proposal.

External stakeholder comments

- (1) The application did not require referral to Queensland Treasury (planning) under Schedule 9 or 10 of the *Planning Regulation 2017*.
- (2)

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.

Other

- (1) The application did not require referral
- (2) The application did not require public notification and as such Council did not receive any submissions about the application.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Land use configuration*— all three parcels would be regular in shape and be compatible with other development in the locality considering the area, proportion, orientation and road frontage.
 - (b) *Access*— Three lots would have adequate frontage to a constructed road.
 - (c) *Overlays*—Significant impacts on the environmental values would be avoided as new boundaries would be sufficiently clear of identified MSES areas.

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.