

Development application—decision under delegated authority

Reconfiguring a lot – (1 lot in 2 lots)

198 Benhams Road, MUNDUBBERA on land described as lot 2 on RP28439

Application reference: 55/20

1 Proposal summary

- (1) The applicant seeks a Development permit for Reconfiguring a Lot – (1 lot into 2) at 198 Benhams Road, Mundubbera
- (2) Lot 19 will retain the existing house and contain an area of 57.37ha. The proposed lot 18 will have an area of 26.23ha, both meet the area and frontage requirements.
- (3) 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.
- (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

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 and Environment Manager

17/04/2020

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— (1 lot into 2) at 198 Benhams Road, Mundubbera on land described as Lot 2 on RP 28439. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The lots are in the Rural Residential zone with surrounds 'Intensive Agricultural Precinct' to the North and Eastern boundaries while 'Recreation and open space' to the South and on the Western boundary is Rural Residential .
- (2) The application was deemed properly made on 2 April 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 (except excluded reconfiguration) code*, and associated operational work code.
- (2) The proposal requires assessment against the following overlay codes—
 - (a) *Bushfire hazard overlay code* as State mapping identifies a small portion on the South Eastern corner of the parcel as locating within a potential impact buffer of a bushfire hazard area.
 - (b) *Infrastructure overlay code* – Currently electricity traverses the newly created lot 18 to the existing house. Ergon Network Capacity Map shows HV Network lines – load data available on request.
 - (c) *Natural features or resources overlays code* – Agricultural land classification Important agricultural area is identified
 - (d) *Flood hazard overlay code* - Outside of the flood hazard area containing suitable building envelopes and vehicle access areas outside identified hazard areas.

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 States interests, policies or benchmarks relevant to this application

North Burnett Regional Planning Scheme

4.3.3.1 Reconfiguring a lot code

- (1) The proposal complies with the Reconfiguring a lot (except excluded reconfiguration) 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 area and frontage of both lots would exceed the minimum 2ha and 70m road frontage requirements prescribed by Table 9.4.10
 - (d) the lots would have a suitable building envelope with safe, lawful and practical access to a constructed road, and outside identified hazard areas;
 - (e) the new lot layout would be compatible with other development in the locality considering the area, proportion and orientation;
 - (f) the reconfiguring provides an area within each lot suitable for a building able to accommodate the intended or probable use of the site.

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) *Bushfire hazard overlay code* as State mapping identifies a very small portion of land on the South/Eastern boundary as 'potential Impact Buffer'.
- (2) The proposal complies with the *Infrastructure overlay code*. Electricity traverses the newly created lot 18 to the existing house. Ergon Network Capacity Map shows HV Network lines – load data available on request.
- (3) The proposal complies with the Natural features or resources overlays code- Identified areas Matters of State Environmental Significant 'Important agricultural areas' the land is zoned Rural Residential therefore no significant impacts.

4.4 Consultation

Internal stakeholder comments

- (1) Council's Consulting Engineer was invited to comment on the application who supported approval of the application, subject to the Standard of the access.

External stakeholder comments

- (1) The application does not require referral under Schedule 10 Part 9 Division 4 Subdivision 2 Table 1 of the *Planning Regulation 2017* Not within 25m of a State transport corridor.

The site 2RP28439 contains 'Important agricultural areas' however neither of the parcels to be created are less than 25ha (26.23ha and 57.37ha) therefore no referral.

4.4.2.2

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*—both lots would be regular in shape and be compatible with other development in the locality considering the area, proportion, orientation and road frontage.
 - (b) *Access*—The two severances will be accessed from Benhams Road, with one additional and one existing access. the accesses will not create any traffic problems. Both lots would have adequate frontage to Benhams road (gravel surface).

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.