

Development application—decision under delegated authority

Reconfiguring a lot – Boundary Realignment

Lot 1 RP142405 and Lots 2 & 3 on RP179309 1998 Boondooma Road, Old Cooranga

Application reference: 200161/20

1 Proposal summary

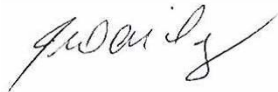
- (1) The applicant seeks to realign the boundaries at 1998 Boondooma Road, Old Cooranga on land described as Lot 1 on RP142405 & Lots 2 & 3 on RP179309.
The purpose of the realignment is to add part of Lot 3 to Lot 2 with an area of 23ha encasing a dam, this will be strengthened by the addition of back up water supply to the orchard. The severance of 30ha from Lot 2 is not suitable for horticulture and will be added to Lot 1 for grazing purposes. The area will give access to a reliable water source on the Boyne River.
- (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

14/08/2020

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 (3 Lots into 3 Lots) at 998 Boondooma Road, Old Cooranga on land described as Lot 1 on RP142405 & Lots 2 & 3 on RP179309. 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 zone— Lot 2 -Intensive agricultural precinct and Lots 2 & 3 in the Hinterland Precinct surrounded by both Rural zone—Intensive agricultural precinct and Rural zone—Hinterland Precinct.
- (2) The application was deemed properly made on *03 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 part of Lot 1RP142405 & part Lot 3RP179309 as locating within a potential impact buffer of a bushfire hazard area of medium potential bushfire intensity.
 - (b) *Natural features or resources overlays code* as Agricultural land classification is identified for both A and B. Severance from Lot 2 where the majority of the parcel is citrus orchard is unsuitable for horticulture and will be added to Lot 1 for grazing purposes.

The proposed realignment avoids the loss or fragmentation of Agricultural Land, compliance with the planning scheme is considered appropriate.

Regulated vegetation Category B, C & R are identified along the Boyne river and a small section to the south of Lot 2 RP179309

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 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 realignment will provide Lot 2 to continue to be used for horticulture (Citrus growing) and the usage will be strengthened by the addition of a back up water supply from Lot 3. The area excised from Lot 2 will be better utilised for grazing activities as it is generally not suitable for horticulture.
 - (d) The realignment will increase the area of Lot 1 on RP142405 by 30ha increasing the area to 407ha. It will decrease Lot 2 RP179309 by 7ha keeping within the minimum area. Decrease Lot 3 RP179309 by 23ha.
 - (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 eastern part of Lot 3 on RP179309 and Lot 1 on RP142405 are identified as locating within a potential impact buffer of a bushfire hazard area of medium potential bushfire intensity. The realignment is distant from these mapped bushfire hazard areas.
 - (d) The Dwelling on lot 2 is well clear of any boundaries and well separated from any timbered areas. Lots 1 & 3 as identified in the Bushfire prone areas, both these parcels do not have houses and are used for grazing purposes.

4.4 Consultation

Internal stakeholder comments

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

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.

External stakeholder comments

- (1) The application did not require referral to DSDMIP under Schedule 10 of the *Planning Regulation 2017*.
- (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*— 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) *Hazards*—Each parcel would contain an appropriate building envelope that is outside identified bushfire areas and significantly clear of matters of state environmental significance.

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.