

## Development application—decision under delegated authority

Reconfiguring a Lot—Boundary Realignment (six lots into six lots over two stages) at 12359 & 12445 Isis Highway, Coalstoun Lakes on land described as Lot 1 on RP191908, Lots 44 & 41 on MZ103, Lot 93 on MZ277, Lot 1 on RP95477 & Lot 2 on RP115679—Code assessable development application under the *Planning Act 2016*

Application reference: DA200170

### 1 Proposal summary

- (1) The applicant seeks a Development permit for Reconfiguring a Lot— Boundary Realignment (six lots into six lots over two stages) at 12359 and 12445 Isis Highway, Coalstoun Lakes on land described as Lot 1 on RP191908, Lots 44 and 41 on MZ103, Lot 93 on MZ277, Lot 1 on RP95477 and Lot 2 on RP115679.
- (2) The stated objective of the application is to facilitate a business restructure for succession planning purposes.
- (3) The site is comprised of six lots in two disparate parcels. Council advised the applicant prior to lodgement that the application could be made as a staged development.
- (4) The realignment seeks to align the new boundaries with current and intended land uses to inter alia separate the manufacturing business from the farming operation and provide residential opportunity for family members.
- (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) of the *Planning Act 2016*. The 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.

Jeff Miles

Planning & Environment Manager  
(Delegate of North Burnett Regional Council)

22/1/21  
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 (six lots into six lots over two stages) at 12359 & 12445 Isis Highway, Coalstoun Lakes on land described as Lot 1 on RP191908, Lots 44 and 41 on MZ103, Lot 93 on MZ277, Lot 1 on RP95477 and Lot 2 on RP115679. 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 16 November 2020.
- (2) Council issued the Confirmation notice on 26 November 2020 following receipt of an amended DA Form 1 from the applicant on 25 November 2020.
- (3) The application triggers referral to Department of State Development, Tourism and Innovation (the State) in relation to infrastructure—state transport corridor. A referral confirmation notice was issued on 1 December 2020. The State advised on 14 December 2020 that no request for further information would be made. A referral agency response was issued on 13 January 2021.
- (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 August 2020), 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 site is in the Hinterland precinct of the Rural zone.
- (2) The proposal is identified as Code assessable against the Reconfiguring a lot (boundary realignment) and associated operational work code.
- (3) The proposal also requires assessment against the following overlay codes—
  - (a) Bushfire hazard overlay code;
  - (b) Infrastructure overlay code;
  - (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*—there are no State interests, policies or benchmarks relevant to this application<sup>1</sup>.

#### 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 and acceptable outcomes of the code, specifically—
    - the proposed lots are appropriately configured for their intended use/s;
    - no proposed lots are less than 1.0ha in area;
    - the decision notice requires existing buildings to be setback from new boundaries in compliance with the planning scheme and the *Building Act 1975*;
    - the decision notice requires all new dwelling houses to be serviced by appropriate non-trunk infrastructure (the site is in a nbn™ Satellite service area);
    - all proposed lots would have minimum 306m frontage to at least one constructed road;
    - the realignment would not alter current discharge characteristics.

#### 4.3.4 Overlay codes

##### Bushfire hazard overlay code

- (1) Only the Stage 2 lots are peripherally in a bushfire hazard area of medium potential bushfire intensity.
- (2) These bushfire hazard areas are quarantined by the dam on Lot 93 on MZ277/proposed Lot 22 and the headland in Lot 2 on RP115679/proposed Lot 25.
- (3) The decision notice prohibits siting of new dwellings and bulk storage of hazardous materials in bushfire hazard areas.

##### Infrastructure overlay code

- (4) The number of lots within 25m of an identified road corridor (State controlled road – Isis Highway) would increase from three to four.
- (5) The decision notice requires new dwellings in the transport noise corridor to be setback minimum 15m from Isis Highway frontage and to comply with the Queensland Development Code. The landscaping requirements in AO1.1 of the code are not reasonably applied as conditions of a reconfiguring approval.
- (6) Accesses to proposed lots fronting Isis Highway – i.e. Lots 21, 22 and 23 – have been assessed by the State and conditioned in its referral agency response.

##### Natural features or resources overlay code

- (7) The site is mostly Agricultural Land Classification (ALC) Class A, with the Class B areas correlating with Queensland waterways for waterway barrier works/MSES – Regulated vegetation (intersecting a watercourse).

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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 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.

- (8) The site's waterways/watercourses effectively fragment the site's ALC Class A land. The realignment would not cause further fragmentation.
- (9) A net benefit to agricultural productivity is gained from the consolidation of most of Lot 44 on MZ03 with Lot 41 on MZ103 (proposed Lot 22) and the amalgamation of Lot 1 on RP95477 with Lot 2 on RP115679.
- (10) The site is intersected by various MSES regulated vegetation (defined watercourse) but, notably, the only regulated vegetation mapped within the site is some Category R areas to the periphery of Lot 2 on RP115679. The only mapped Category R area containing trees appears to be to the south-eastern corner.
- (11) No new boundaries are proposed within these Category R areas.

## 4.4 Consultation

### 4.4.1 Internal stakeholder comments

- (1) Council Engineering and Civil Works provided comment on the development. Any comment was incorporated in the decision notice.

### 4.4.2 External stakeholder comments

- (1) The application required referral to the State under Schedule 10 of the *Planning Regulation 2017*.
- (2) The State's referral agency response is included in the decision notice. Condition 2 prohibits Lot 20 from directly accessing the Isis Highway.

### 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 fully compliant with the relevant assessment benchmarks;
  - (b) *Natural features and resources*—consideration was given whether the realignment adversely impacted upon the site's economic resources and its environmental values. It was concluded the new boundaries largely aligned with waterways/watercourses that effectively fragmented the site's ALC Class A land but avoided any areas of mapped regulated vegetation. The realignment was also deemed to provide a net benefit to the site's overall agricultural productivity.

## 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.