

# Development application—decision under delegated authority

Reconfiguring a Lot at Middle Boyne Road, Boynewood on land described as Lot 78 on MZ347 & Lot 85 on SP289060—Code assessable development application under the *Planning Act 2016*

Application reference: DA220043

## 1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot at Middle Boyne Road, Boynewood (described as Lot 78 on MZ347 & Lot 85 on SP289060).
- (2) The stated objective of the application is to realign the boundary between the two parcels to "...aid in the future rural development of the Borderland Farming enterprise".
- (3) Lot 85 is used for cropping, whereas Lot 78 for grazing. The site accommodates a workshed and other minor ancillary structures. All existing improvements would be fully contained within the relevant approved lot.
- (4) Proposed lots 78 and 85 would have an area of 44.74ha and 148.3ha respectively. Both proposed lots meet the minimum area and road frontage requirements in the planning scheme.
- (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) 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 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.

for 

Skye Price

**Interim General Manager Corporate & Community**  
**(Delegate of North Burnett Regional Council)**

4 November 2022

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 Middle Boyne Road, Boynewood on land described as Lot 78 on MZ347 & Lot 85 on SP289060. 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 14 October 2022.
- (2) Council issued the Confirmation notice on 18 October 2022.  
The application does not trigger any referrals.
- (3) 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 2014 v1.4 (amendments commenced 14 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 Rural zone intensive agriculture precinct and is surrounded by other rural lots.
- (2) The proposal is identified as Code assessable against the Reconfiguring a lot (boundary realignment) and associated operational work code.
- (3) The proposed also requires assessment against the following overlay codes—
  - (a) *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

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.

#### **4.3.1 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.

#### **4.3.2 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 outcomes of the code, specifically —
    - (i) the proposal complies with the intended use that being rural agricultural usage having regard to the zone in which the site is included, and does not compromise the future development of adjoining premises.
    - (ii) while not complying with the minimum lot size, it is noted that Lot 78 is already less than the 100ha requirement for lots in the Rural Zone. The proposal would improve the situation by increasing the size of one lot (proposed Lot 85).
  - (c) the boundary realignment provides a better overall outcome for agricultural land as it increases the extent of land under cropping and reduces the prospect of alienating good quality agricultural land;
  - (d) no agricultural land would be removed from productive use;
  - (e) the realignment will not alter current drainage characteristics, nor are any earthworks proposed or anticipated as required to implement the realignment;
  - (f) the new lot layout would be compatible with other development in the locality, considering the area, proportion, orientation and road frontage.

#### **4.3.3 Overlay codes**

- (1) The proposal complies with the *Natural features or resources overlays code* as—
  - (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code, specifically—
    - (i) significant impacts on environmental values would be avoided with new boundaries distant from identified MSES areas; and,
    - (ii) the proposed realignment avoids the loss or fragmentation of Agricultural Land.

### **4.4 Consultation**

#### **4.4.1 Internal stakeholder comments**

- (1) Technical Services commented on the development in relation to access for the new lots. The advice confirmed that the existing access arrangement is appropriate for the proposed development and would not adversely affect the road network.

#### **4.4.2 External stakeholder comments**

- (1) The application did not require referral to DSDMIP under Schedule 10 of the *Planning Regulation 2017*.

#### **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 complies with the relevant assessment benchmarks;
  - (b) *infrastructure*—there would be no adverse impact on the Council’s infrastructure networks;
  - (c) *Land use configuration*—all lots would be compatible with other development in the locality considering the area, proportion and orientation.

## 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.