

# Development application—decision under delegated authority

Development permit for Reconfiguring a lot—Subdivision (1 lot into 5 lots) at Eureka Road, Golden Fleece QLD 4621 on land described as Lot 37 on CK2495—Impact assessable development application under the *Planning Act 2016*

Application reference: 133/20

## 1 Proposal summary

- (1) The applicant seeks a development permit for Reconfiguring a lot—Subdivision (1 lot into 5 lots) at Eureka Road, Golden Fleece QLD 4621 (described as Lot 37 on CK2495).
- (2) The stated objective of the proposal is to subdivide Lot 37 on CK2495 into five lots—four 100ha lots fronting Eureka Road and one lot of 268ha accessing Mount Goonaneman Road.
- (3) The site has an area of 667.7 hectares, and is located in the Rural zone.
- (4) The Council must assess the application against the assessment benchmarks, and having regard to those matters set out in the *Planning Act 2016* and *Planning Regulation 2017*. Assessment may also "...be carried out against, or having regard to, any other relevant matter other than a person's personal circumstances, financial or otherwise" [*Planning Act 2016* section 45(5)(b)].
- (5) The Council must decide the application in accordance with the decision rules in s60(3) and s60(5).
- (6) The application is identical to one approved on 16 February 2017 (ref: 199/16) but lapsed on 16 February 2019. The assessment benchmarks remain unchanged and it would therefore be prudent to approve the application.
- (7) 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(3) 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  
(Delegate of North Burnett Regional Council)

26-8-20  
Date

## 4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for a development permit for Reconfiguring a lot—Subdivision (1 lot into 5 lots) at Eureka Road, Golden Fleece QLD 4621 on land described as Lot 37 on CK2495. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

### 4.1 Facts and circumstances

- (1) The site is in the Rural zone (Hinterland precinct) and is surrounded by other Rural zoned land.
- (2) The application was properly made on 26 June 2020.
- (3) The application does not trigger any referrals.
- (4) Council issued the Confirmation notice on 2 July 2020.
- (5) The application included sufficient information and it was not necessary to issue an information request. The Council advised the applicant on 10 July 2020 that it would not be issuing an information request.
- (6) The development application was publicly notified from 21 July to 11 August 2020, and the Council did not receive any submissions—
  - (a) Council received the notice of intention to commence public notification on 15 July 2020;
  - (b) Council received the notice of compliance with public notification requirements on 12 August 2020;
  - (c) Public notification was undertaken in accordance with the *Development Assessment Rules* and the *Planning (COVID-19 Emergency Response) Regulation 2020*.
- (7) 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 SPP, to the extent that it is not appropriately integrated in the planning scheme;
  - (c) the previous approval of an identical application on the land;
  - (d) development approvals and lawful use of adjacent land.
- (8) The same development proposal was approved on 16 February 2017 (ref: 199/16) and the original development permit subsequently lapsed on 16 February 2019.

### 4.2 Category of assessment

- (1) The proposed reconfiguring is impact assessable requiring assessment against the *North Burnett Regional Planning Scheme 2014* (version 1.3), with the relevant codes being—
  - (a) Reconfiguring a lot (except excluded reconfiguration) code;
  - (b) Infrastructure and operational work code; and
  - (c) Rural zone code.
- (2) The site is partly within planning scheme overlays and is therefore also assessable against the following overlay codes—
  - (a) Bushfire hazard overlay code;
  - (b) Flood hazard overlay code; and
  - (c) Natural features or resources overlays code.

## 4.3 Assessment benchmarks

### 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*—the State Planning Policy is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.

### 4.3.2 Strategic framework

#### 4.3.2.1 Strong rural economy and futures

- (1) *The conservation of productive rural land, including important agricultural areas (IAA)...*  
The site is not in an IAA and is not of ALC Class A or B. State mapping designates the site with a preferred land use of “grazing native vegetation”. However, the site’s grazing (carrying) capacity is heavily constrained by steep topography and regulated vegetation which restricts clearing works and poses access issues (e.g. for mustering). Approximately only 130ha of the site’s 668ha is reasonably available for grazing. It can therefore be reasonably represented that the site is not productive rural land.
- (2) *...preserves the rural character...*  
At minimum 100ha, the local rural character should be maintained.

#### 4.3.2.2 Settlement pattern

- (1) The site is equidistant to Childers and Biggenden (approximately 20 minutes’ drive). The subdivision would achieve the stated opportunities for Biggenden including being “well-suited to households seeking an affordable rural lifestyle and functioning as the lifestyle service centre” without “undermining rural productivity” for the reasons stated above.
- (2) The site is adjacent and proximate to 12 x 100ha (89 to 140ha) existing lots in the Hinterland Precinct—Golden Fleece locality. The titles for these lots were created between 2007 and 2012. .

### 4.3.3 Zone code

- (1) The proposal generally complies with the Rural zone code as—
  - (a) it complies with the purpose and overall outcomes of the zone code;
  - (b) it complies with the performance outcomes of the zone code.
- (2) The proposed subdivision could arguably be considered consistent with the overall outcome of the Hinterland precinct. A sparsely-settled rural character dominated by expansive and low intensity rural production such as grazing is able to be retained with a proposed minimum lot size of 100ha.
- (3) The site’s grazing capacity is heavily constrained by slope and vegetation and is unable to be improved under current vegetation clearing legislation.
- (4) The proposed building exclusion zones for each proposed lot maintains vegetated slopes and elevated areas which provide a scenic backdrop in the natural landscape.

### 4.3.4 Overlay codes

- (1) The proposal complies with the Planning Scheme 8.2.2 Bushfire hazard overlay code as—
  - (a) each of the proposed lots includes a building exclusion zone, and would have sufficient area outside the medium, high and very high Bushfire hazard overlay area or within the lower risk areas of the site;
  - (b) the proposed building exclusion zone for each lot have evidence of prior clearing and are not mapped as regulated vegetation;

- (c) the proposed building exclusion zone for each lot directly adjoins Eureka Road or Mount Goonaneman Road for efficient emergency access and evacuation;
  - (d) design and siting achieves increased safety and comfort for people and property in the event of a bushfire.
- (2) The proposal complies with the Planning Scheme 8.2.3 Flood hazard overlay code as—
- (a) each of the proposed lots includes a building exclusion zone, and would have sufficient area outside the Flood hazard overlay area;
  - (b) the proposed building exclusion zone for each lot directly adjoins Eureka Road or Mount Goonaneman Road and provides vehicular access outside of the Flood hazard overlay area;
  - (c) no material change of use or works proposed or required, including within the Flood hazard overlay area.
- (3) The proposal complies with the Planning Scheme 8.2.5 Natural features or resources overlays code as—
- (a) subdivision of Lot 37 on CK2495 would not affect the productive capacity or exploit the identified natural features or resources;
  - (b) the site is not identified as Agricultural Land Classification Class A or Class B;
  - (c) the proposed development avoids land use conflict;
  - (d) environmental values would be maintained through the inclusion of building exclusion zones on each lot.

#### **4.3.5 Other development codes**

- (1) The proposed subdivision complies with the performance outcomes of Planning Scheme 9.4.5 Reconfiguring a lot (except excluded reconfiguration) code as—
- (a) The proposed lots do not achieve the minimum area of 400 hectares, however are suitable for their intended use of “rural lifestyle” in regards to the area and frontage of each new lot, and the topography and the existing features of the site. The lots would be compatible with other development in the locality.
  - (b) The land is not capable of being used sustainably for crop or animal production with only a reasonable level of inputs or without causing degradation of land or other natural resources.
  - (c) All lots achieve the minimum road frontage of 200 metres. However, proposed Lots 60 and 64 front unformed roads, being Mount Goonaneman Road.
  - (d) The proposed building exclusion zones are located outside of the flood hazard areas and on the flatter portions of the proposed lots.
  - (e) Eureka Road should be unaffected with only two access points 730m apart proposed to service proposed Lots 60 to 63. Proposed Lot 64 would utilise the existing access to Mount Goonaneman Road. The applicant has not indicated whether the existing access to Eureka Road will be removed. Both Eureka and Mount Goonaneman Roads are considered to be of adequate construction standard to service the proposed lots without any upgrading.
  - (f) A letter from First National Real Estate Childers (dated 11 June 2020) provides representations to demonstrate a community need for additional 100ha lots. These include strong sales performance and improvements on all of the six (6) similar sized properties in the vicinity, and increased enquiries since COVID-19 pandemic commenced.
- (2) The proposed subdivision generally complies with the Planning Scheme 9.4.3 Infrastructure and operational work code as—
- (a) The proposed lots will be serviced to a suitable level given the rural location and characteristics of the development.
  - (b) The portion of each lot that is located outside of the building exclusion zone has sufficient area for the provision of future septic, rainwater storage and greywater waste facilities.

- (c) Road upgrades and the provision of stormwater infrastructure are not required for the development.
- (d) The provision of electricity and telecommunications to each lot is likely to be cost-prohibitive and unreasonable given the extent of land located outside of the building exclusion zone. There are alternative off-grid options available for purchasers of these lots. A property note can be included in Council's system to alert purchasers that electricity and telecommunications have not been provided to each lot.

#### **4.3.6 Other relevant matters**

- (1) The following are other relevant matters under section 45(5)(b) of the *Planning Act 2016*—
  - (a) The same development proposal was approved on 16 February 2017 (ref: 199/16) and the original development permit subsequently lapsed. The previous development proposal was assessed under the *North Burnett Regional Planning Scheme 2014*.

### **4.4 Consultation**

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

- (1) Technical Services confirmed on 3 July 2020 that no additional conditions to those in the original permit were required. Technical Services recommended an update to Condition 6, which is the condition relating to vehicular access to the proposed lots.

#### **4.4.2 Referral agency response**

- (1) Not applicable—the application did not require referral.

#### **4.4.3 Properly made submissions**

- (1) This application was publicly notified between 21 July to 11 August 2020. No submissions were received during this notification period.

#### **4.4.4 Other submissions**

- (1) Not applicable

### **4.5 Key issues for this application**

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
  - (a) The site's grazing capacity is heavily constrained by slope and vegetation.
  - (b) Each proposed lot has a building exclusion zone that is located outside of the flood hazard overlay, regulated vegetation areas, steep land, and highest bushfire risk areas.
  - (c) The proposed lots are suitable for the intended "rural lifestyle" use.
  - (d) The proposed lots have direct road access and can be suitably serviced with infrastructure appropriate to its relatively remote rural location.

*These matters have been derived from the assessment benchmarks.*

### **4.6 Decision rules under the *Planning Act 2016***

- (1) The assessment manager—
  - (a) may approve all or part of the application;
  - (b) may refuse the application;
  - (c) may give a preliminary approval for all or part of the proposal;
  - (d) may impose conditions.

*Section 60(3) of the Planning Act 2016 sets out the decision rules for impact 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 all of the application and impose conditions in accordance with the decision rules.