

Development application—decision under delegated authority

Reconfiguring a Lot—Boundary Realignment (2 Lots into 2 Lots) at Hawkwood Road and 1502 Mundubbera Durong Road, Derri Derra on land described as Lot 34 on NT55 and Lot 2 on RP145292—Code assessable development application under the *Planning Act 2016*

Application reference: 11/18

1 Proposal summary

- (1) The applicant seeks a development permit for reconfiguring a lot—boundary realignment (2 lots into 2 lots) at Hawkwood Road and 1502 Mundubbera Durong Road, Derri Derra on land described as Lot 34 on NT55 and Lot 2 on RP145292.
- (2) The lots are in the Rural zone (intensive agricultural precinct), and the application requires code assessment.
- (3) The objectives of the application are to—
 - (a) Increase the size of Lot 34 so that the existing pecan plantation will be located on only one lot (it currently occupies both existing lots); and
 - (b) Separate the existing house and associated outbuildings from the pecan plantation.
- (4) Both existing lots have an area of approximately 83.5ha. Proposed 34 would increase in area to 165.9ha, and proposed Lot 2 would decrease in area to 1.03ha.
- (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 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 and referral agency(s) 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.
- (4) That the Council issue the charges notice in accordance with Council's Charges Resolution (No.2) 2015.

3 Decision

I concur with the above recommendations—please issue the Notice of decision as recommended.

01/05/2018


MJP Pitt
Chief Executive Officer
(Delegate of North Burnett Regional Council)

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 (2 lots into 2 lots) at Hawkwood Road and 1502 Mundubbera Durong Road, Derri Derra on land described as Lot 34 on NT55 and Lot 2 on RP145292. 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 in the Rural zone (intensive agricultural precinct). Surrounding lots are in the Rural (intensive agricultural precinct) and Rural (hinterland precinct) zones.
- (2) The application was deemed properly made on 6 February 2018 and Council issued a confirmation notice on 13 February 2018.
- (3) The application requires referral to SARA under Schedule 10, Part 9, Division 4, Subdivision 2 of the *Planning Regulation 2017* as the total number of lots adjoining the State transport corridor would increase. The application was referred on 20 March 2018, and SARA provided a response on 12 April 2018.
- (4) The applicant stated they agree to accept an information request. They provided amended plans on 14 February 2018 that increased the size of proposed Lot 2 to 1ha; this satisfies the acceptable outcomes of the relevant assessment benchmarks.
- (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, 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 overlays codes—
 - (a) *Bushfire hazard overlay code* as the lots are partly within the medium bushfire risk area;
 - (b) *Flood hazard overlay code* as the lots are partly within a flood hazard area;
 - (c) *Infrastructure overlays code* as the lots are within 25m of an identified road corridor; and
 - (d) *Natural features or resource overlays code* as development contains Agricultural land classification (class A and B) and matters of State environmental significance.

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.

4.3.1 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 application¹.

4.3.2 North Burnett Regional Planning Scheme

- (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 zone code;
 - (b) it complies with the performance outcomes of the zone code;
 - (c) both lots would be appropriate for their intended use;
 - (d) no lot would be less than 1.0 hectares in area; and
 - (e) both lots would be capable of accommodating appropriate on-site infrastructure.
- (2) The proposal complies with the *Bushfire hazard overlay code, Flood hazard overlay code* and *Natural features or resource overlay codes* as both lots would have sufficient development envelopes and vehicular access that are outside identified hazard areas.
- (3) The proposal complies with the *Infrastructure overlay code* as both lots would have adequate separation distances and buffers along the road corridor to mitigate the potential adverse impacts caused by traffic noise and headlights.

4.4 Consultation

4.4.1 Internal stakeholder comments

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

4.4.2 External stakeholder comments

- (1) The Department of State Development, Manufacturing, Infrastructure and Planning raise no objections to the proposal, and they require conditions to be included in any development permit.

4.4.3 Public consultation

- (1) The application did not require public notification and 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 generally be regular in shape and be compatible with other development in the locality considering the area, proportion, orientation and road frontage. Furthermore, both lots would be appropriate for their intended use and have sufficient development envelopes that are outside identified hazard areas.

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;

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.

(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.