

# Development application—decision under delegated authority

Reconfiguring a Lot at 236 Hunters Road & Summers Road, Coalstoun Lakes on land described as Lot 1 on SP280483—Impact assessable development application under the *Planning Act 2016*

Application reference: 50-18

## 1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot to subdivide Lot 1 of SP280483 into two lots.
- (2) The objective of the proposal is to separate the area approved for extractive industry under MCU approval 192/13 from the balance area.
- (3) 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*, 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.
- (4) That the Council issue a charges notice in accordance with its Charges Resolution (No. 2) 2015.

## 3 Decision

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

  
R Burton  
Interim Chief Executive Officer

Date 19 June 2018

## 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 236 Hunters Road and Summers Road, Coalstoun Lakes on land described as Lot 1 on SP280483. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

### 4.1 Facts and circumstances

- (1) The site has a total area of 190.7ha and is in the Intensive agricultural precinct of the Rural zone. It is surrounded by other Rural lots in the Intensive agricultural precinct.
- (2) The planning scheme prescribes a minimum lot size of 100ha for Rural (Intensive agricultural precinct) lots.
- (3) The application was deemed properly made on 16 March 2018.
- (4) The applicant stopped the confirmation period on 30 March 2018 upon advice from Council that Lot 2 did not fully contain the area approved for extractive industry under 192/13 and the proposed boundary located closer than 10m from regulated vegetation and thus would trigger referral to Department of State Development, Manufacturing, Infrastructure & Planning if left as the applicant proposed.
- (5) Technical Services advised on 9 April 2018 that it had no concerns or requirements.
- (6) The applicant changed the alignment of the proposed boundary to ensure greater than 10m separation from regulated vegetation and then withdrew the stop notice on 2 May 2018.
- (7) Council issued the Confirmation Notice on 2 May 2018.
- (8) The applicant commenced public notification on 17 May 2018, completed public notification on 8 June 2018 and provided Council with a Notice of Compliance on 13 June 2018. No properly made submissions were received.

### 4.2 Category of assessment

- (1) The proposed Subdivision is Impact assessable requiring assessment against the entire planning scheme.
- (2) The site is partly within scheme overlays and is therefore also assessable against the following overlay codes—
  - (a) Bushfire hazard overlay code; and
  - (b) Natural features or resources overlays code (re Agricultural Land Classification and Matters of State Environmental Significance)

### 4.3 Assessment benchmarks

#### 4.3.1 State planning instruments

- (1) *Regional plan*—the site is not included in the Wide Bay Burnett Regional Plan so does not require any consideration by Council.
- (2) *State planning policy*—the State's interests were relevant to deciding this application to the following extent<sup>1</sup>—
  - (a) *Agriculture*—the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in protecting Agricultural land classification land for sustainable agricultural use. There are no assessment benchmarks for this State interest.

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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.

- (b) *Biodiversity*—the development outcomes associated with the proposal do not conflict with or are consistent with the State’s interests in avoiding significant impacts of matters of environmental significance.
- (c) *Water quality*—the development outcomes associated with the proposal do not conflict with or are consistent with the State’s interests in protecting the environmental values of Queensland waters. The assessment benchmarks do not apply to the proposed development.
- (d) *Natural hazards, risk and resilience*—the development outcomes associated with the proposal do not conflict with or are consistent with the State’s interests in avoiding or mitigating risks associated with natural hazards to protect people and property. The development complies with the assessment benchmarks.

#### **4.3.2 Strategic framework**

- (1) Strategic intent
  - (a) The development would help achieve the vision of ‘an active and thriving region’.
- (2) Natural environment and sustainability
  - (a) The development would conserve natural environmental values.
- (3) Strong rural economy and futures
  - (a) The development would not compromise the site’s agricultural capacity having regard to the MCU approval 192/13 for extractive industry.
- (4) Community strength and wellbeing
  - (a) Not applicable.
- (5) Settlement pattern
  - (a) The development would fully contain the extractive industry use on proposed Lot 2 separate to the residential and rural use on proposed Lot 3, thus appropriately managing the site’s natural resources while minimising any potential conflicts between uses.
- (6) Infrastructure, services and facilities
  - (a) The development would not introduce any conflict with infrastructure networks, strategic or otherwise.
  - (b) Uses on the site are established and would continue without requiring additional infrastructure services.

#### **4.3.3 Zone code**

- (1) The proposal complies with the Rural zone 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.

#### **4.3.4 Overlay codes**

- (1) The proposal complies with the Planning Scheme 8.2.2 Bushfire hazard overlay code as—
  - (a) the subdivision would not increase the site’s current bushfire hazard risk as the number of people living or working on the site will not increase.
- (2) The proposal complies with the Planning Scheme 8.2.5 Natural features or resources overlays code as—
  - (a) the proposed boundary is more than 10m from mapped regulated vegetation;
  - (b) the subdivision would not cause the loss or fragmentation of the site’s agricultural land given the previous MCU approval for extractive industry.

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

- (1) The proposal complies with the Planning Scheme 9.4.4 Reconfiguring a lot (except excluded reconfiguration) code as—

- (a) while Lot 2 is less than the minimum prescribed 100ha, the site's agricultural land is not further compromised by the subdivision given the preceding MCU approval allowing extractive industry;
  - (b) the proposed boundary aligns with an existing fenceline or avoids steeper landslip-prone land that would challenge fencing works;
  - (c) the extractive industry use area would be fully contained within proposed Lot 2;
  - (d) at 180.7ha, the existing and any future sensitive land use on proposed Lot 3 will be sufficiently separated (and therefore buffered) from the extractive industry use on proposed Lot 2;
  - (e) both lots retain compliant road frontage and maintain constructed road access.
- (2) The proposal complies with the Planning Scheme 9.4.3 Infrastructure and operational work code as—
- (a) existing infrastructure service connections are fully contained within the respective boundaries without need for modification or new connections.

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

- (1) There are no other relevant matters under section 45(5)(b) of the Planning Act 2016.

### **4.4 Consultation**

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

- (1) Council's Technical Services advised that it had no comments or requirements.
- (2) No other officers were invited or commented on the application

#### **4.4.2 Other**

- (1) No submissions (properly made or otherwise) were received in response to public notification of this application.

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

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
- (a) the area permitted by MCU approval 192/13 for extractive industry use is fully contained within Lot 2;
  - (b) the site's agricultural capacity not being compromised by the subdivision having regard to the MCU approval 192/13;
  - (c) Council received no submissions, including any objecting to the subdivision.

*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 impose conditions;
  - (d) may give a preliminary approval for all or part of the proposal.
- 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 the application and impose conditions in accordance with the decision rules.