

Development application—decision under delegated authority

Reconfiguring a Lot—Boundary Realignment (3 Lots into 2 Lots) at 355 Middle Boyne Road and 286 Glenrae Dip Road, Boynewood on land described as Lots 79, 82 and 85 on MZ347—Code assessable development application under the *Planning Act 2016*

Application reference: 115/18

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot—Boundary Realignment (3 Lots into 2 Lots) at 355 Middle Boyne Road and 286 Glenrae Dip Road, Boynewood on land described as Lots 79, 82 and 85 on MZ347. The following table summarises the proposal—

Existing lots			Proposed lots		
No.	Area	Frontage	No.	Area	Frontage
Lot 79	64.702ha	~533m	Lot 82	86ha	~1609m (Middle Boyne Rd) ~570 (Glenrae Dip Road)
Lot 82	64.783ha	~533m	Lot 85	108ha	~600m
Lot 85	64.722ha	~533m (Middle Boyne Rd) ~1170m (Glenrae Dip Road)			

- (2) 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 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.


R Burton PSM

Interim Chief Executive Officer (Delegate of North
Burnett Regional Council)

08/06/2018

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 (3 Lots into 2 Lots) at 355 Middle Boyne Road and 286 Glenrae Dip Road on land described as Lots 79, 82 and 85 on MZ347. 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 and surrounded by lots the Rural zone—Intensive agricultural precinct.
- (2) The application was deemed properly made on 24 May 2018. Council did not issue a confirmation notice as it was not necessary under s2.2 of the Development Assessment Rules.
- (3) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*.
- (4) The applicant stated that they agree to accept an information request, but 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, 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 overlay codes—
 - (a) *Bushfire hazard overlay code* as a small portion of proposed Lot 82 is partly within the medium bushfire risk area; and
 - (b) *Natural features or resource overlays code* as the lots are partly within Agricultural Land Classification and contain MSES areas.

4.3 Assessment benchmarks

- (1) A detailed assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application.

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 interest statements, policies or benchmarks relevant to this application¹.

4.3.3 Reconfiguring a lot code

- (1) The proposal complies with the Reconfiguring a lot (boundary realignment) and associated operational work code as—

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.

- (a) it achieves the purpose and overall outcomes of the zone code;
- (b) it complies with the performance outcomes of the zone code;
- (c) the existing lots are already less than the 100ha requirement for lots in the Rural Zone. The proposal would improve the situation by increasing the lot sizes and dimensions to more fully with the minimum area requirements;
- (d) the new lot layout would be compatible with other development in the locality considering the area, proportion, orientation and road frontage;
- (e) the proposal would improve farming practices on the site and increase the area available to improve productivity; and
- (f) no agricultural land would be removed from productive use.

4.3.4 Overlay codes

- (1) The proposal complies with the Bushfire hazard overlay 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; and
 - (c) both lots would contain an appropriate building envelope that is outside identified bushfire hazard areas, and no material change of use or works are proposed or required.
- (2) The proposal complies with the Natural features or resource overlays 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 contain an appropriate building envelope that is significantly clear of matters of state environmental significance; and
 - (d) the lots would not alienate or fragment existing agricultural land.

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 Public consultation

- (1) The application did not require public notification and as such 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 be regular in shape and be compatible with other development in the locality considering the area, proportion, orientation and road frontage.
 - (b) *Hazards*—both lots would contain an appropriate building envelope that is outside bushfire hazard areas and significantly clear of matters of state environmental significance.
 - (c) *Driveways*—an easement would not be required over the existing driveway providing access to Glenrae Dip Road as a new combined vehicle access point would be provided. Owners of proposed Lot 85 would provide a future driveway that is suitable for their intended land use.

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.