

Development application—decision under delegated authority

Reconfiguring a Lot—Boundary Realignment (2 Lots into 2 Lots) at 378 and 430 Cedar Creek Road, Moonford on land described as Lot 104 on SP191812 and Lot 107 on RW183—Code assessable development application under the *Planning Act 2016*

Application reference: 186/18

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot—Boundary Realignment (2 Lots into 2 Lots) at 378 and 430 Cedar Creek Road, Moonford on land described as Lot 104 on SP191812 and Lot 107 on RW183. The purpose of the application is to realign the boundaries so that the majority of productive farming land would be confined to one lot.
- (2) The following table summarises the proposal—

Existing lots			Proposed lots		
No.	Area	Frontage	No.	Area	Frontage
Lot 104	225ha	~40m to Cania Road ~747m to Cedar Creek Road ~1437m to unnamed road	Lot 104	136.6ha	~40m to Cania Road ~414m to unnamed road
Lot 107	133.1ha	~826m to Cedar Creek Road	Lot 107	221.5ha	~1564 to Cedar Creek Road ~1023m to unnamed road

- (3) The application is code assessable.
- (4) 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.

3 Decision

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


Gary Rinehart
Chief Executive Officer

06/09/18
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 378 and 430 Cedar Creek Road, Moonford on land described as Lot 104 on SP191812 and Lot 107 on RW183. 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 the Rural zone—Intensive agricultural precinct and surrounded by lots in the Rural zone—Intensive agricultural precinct and Rural zone—Conservation precinct.
- (2) The application was deemed properly made on 28 August 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* as confirmed by SARA email dated 5 September 2018.
- (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 the lots are partly within the medium and high bushfire risk area;
 - (b) *Flood hazard overlay code* as the lots are partly within a flood hazard area;
 - (c) *Infrastructure overlays code* as Lot 104 has frontage to a State-controlled road; and
 - (d) *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 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.

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. Due to the nature of the proposal and insignificant departure of

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.

the SPP from the planning scheme, compliance with the planning scheme is considered appropriate.

North Burnett Regional Planning Scheme

4.3.3.1 Reconfiguring a lot 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;
 - (c) both lots would comply with the 100ha requirement and 100m road frontage for lots in the Rural Zone. However, proposed Lot 104 would only have 40m frontage to a constructed road as the majority of its frontage would be to an unnamed/unconstructed road.
 - (d) the new lot layout would be compatible with other development in the locality considering the area, proportion and orientation;
 - (e) the proposal would improve farming practices by confining the majority of productive farming land into one lot; and
 - (f) no agricultural land would be removed from productive use.

4.3.3.2 Overlay codes

- (1) The proposal complies with the Bushfire hazard overlay code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the 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 Flood hazard overlay code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) only a small portion of the lots are within a flood hazard area, and both lots would have flood-free access and contain an appropriate building envelope outside identified hazard areas.
- (3) The proposal complies with the Natural features or resource overlays code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the 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

Internal stakeholder comments

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

External stakeholder comments

- (1) The application does not require referral under Schedule 10 of the *Planning Regulation 2017* as confirmed by SARA email dated 5 September 2018.

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) *Access*—both lots would have adequate frontage to a constructed road.
 - (c) *Hazards*—both lots would contain an appropriate building envelope that is outside identified bushfire and flooding hazard areas and significantly clear of matters of state environmental significance.

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.