

Development application—decision under delegated authority

Reconfiguring a Lot at 297 Grays Rd, Wetheron on land described as Lots 3 and 4 on SP199356—Code assessable development application under the *Planning Act 2016*

Application reference: DA220045

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot at 297 Grays Rd, Wetheron (described as Lots 3 and 4 on SP199356).
- (2) The stated objective of the application is to realign the common boundary so to 'separate his (applicant) house from the citrus processing facilities and incorporate Lot 4 back into the main property.
- (3) The site is used for the residential activity of Dwelling house and cropping. The site accommodates a dwelling and other agricultural buildings/structure. All existing improvements would be fully contained within the relevant approved lot.
- (4) Lot 3 will retain the existing house and contain an area of 51.9ha. Proposed lot 4 will have an area of 20.07ha and accommodate the larger of the dwellings on the site. All proposed lots are consistent with existing lot sizes and meet expectations for development in the locality. Other orchards in the district comprise lots of comparable sizes.
- (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 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 Decision Notice.
- (3) That the Council publish the Decision Notice, including the Statement of reasons, on its website.
- (4) Council can no longer issue a charges notice in accordance with its Charges Resolution (No. 2) 2015 as it did not make a Local Government Infrastructure Plan by 1 July 2018.

3 Decision

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

for 

David Rowland
Interim Planning & Environment Manager
(Delegate of North Burnett Regional Council)

25 November 2022

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 at 297 Grays Rd, Wetheron on land described as Lots 3 and 4 on SP199356. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was deemed properly made on 07 November 2022.
- (2) Council did not issue a Confirmation notice as it was not required under s2.2 of the Development Assessment Rules.
- (3) The application does not trigger any referrals.
- (4) 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 2014 v1.4 (amendments commenced 14 August 2020), to the extent relevant; and
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme;
 - (d) Hazard mapping and vegetation management overlays, including the fact that one of the existing lots, Lot 4 on SP199356 is entirely within the mapped Flood Hazard Overlay.

4.2 Category of assessment

- (1) The site is in the Rural zone – Intensive agricultural precinct and in a locality dominated by other rural lots.
- (2) The application is Code assessable against the Reconfiguring a lot (boundary realignment) and associated operational work code.
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) Flood hazard overlay code;
 - (b) Infrastructure overlay code;
 - (c) Natural features or resources overlays code.
- (4) In accordance with s60(2) of the *Planning Act 2016*, to the extent the application involves development that requires code assessment, the Council—
 - (a) must decide to approve the application to the extent the development complies with all of the assessment benchmarks;
 - (b) may decide to approve the application even if the development does not comply with some of the assessment benchmarks; and
 - (c) may, to the extent the development does not comply with some or all the assessment benchmarks, decide to refuse the application only if compliance cannot be achieved by imposing development conditions.

4.3 Assessment benchmarks

- (1) The application included a basic assessment against the assessment benchmarks, however a more detailed assessment for compliance has also been carried out.

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 application.

4.3.3 Reconfiguring a lot (boundary realignment) and associated operational work 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, specifically—
 - (i) the lots would be regularly configured with Lot 4 compatibly aligned with the existing improvements on the land
 - (ii) both lots have a suitable building area free from any site constraints including most natural hazards (with both lots already built upon);
 - (iii) a safe, lawful and practical access to Grays Road is available to Lot 3 (with a suitable access existing to proposed Lot 4);
 - (iv) new boundaries would be distant from identified MSES and would not affect infrastructure.

4.3.4 Overlay codes

- (1) 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, specifically—
 - (i) significant portions of the lots are not mapped and would therefore maintain an appropriate level of flood immunity for future development;
 - (ii) The existing flood free accesses would remain outside the hazard area;
 - (iii) no filling or excavation is proposed;
 - (iv) risks are not increased as no new lots or dwellings are proposed.
- (2) The proposal complies with the *Infrastructure 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) the realignment would not compromise the operation of existing infrastructure assets or stock route and does not involve material change of use.
- (3) The proposal complies with the *Natural features or resources overlays code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (i) significant impacts on environmental values would be avoided with no significant change to use areas and new boundaries similarly located from identified MSES areas

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Civil Works Team did not provide comment on the development as it was not deemed necessary.

4.4.2 External stakeholder comments

- (1) The application did not require referral to SARA under Schedule 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application did not require public notification.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Compliance with the assessment benchmarks*—the proposal is fully compliant with the relevant assessment benchmarks;
 - (b) *Lot configuration & access*—both lots would be compatible with other land uses in the locality. Both lots would be regular in shape, with suitable access and be compatible with other development in the locality considering the area, orientation and constraints.
 - (c) *Hazards*—the realignment would not alter existing hazards with all structures located to mitigate associated risks. The realigned boundary enables one lot currently within the Flood Hazard Overlay to be enlarged and be mostly outside it.

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.