

Development application—decision under delegated authority

Development Permit for Reconfiguring a lot - Boundary Realignment (2 into 2 lots) at 1502 Paradise Dam Road, Coringa on land described as Lot 2 and 20 on SP158184—Code assessable development application under the Planning Act 2016

Application reference: DA230015

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment (2 Into 2 Lots) at 1502 Paradise Dam Road, Coringa; land described as lot 2 and 20 on SP158184.
- (2) The stated objective of the proposal is to realign the boundaries so that the two lots are divided by Paradise Dam Road, with one lot on the river side of Paradise Dam Road and lot 20 to be solely on the eastern side of Paradise Dam Road.
- (3) The site historically is used for cropping and pastoral purposes. The site accommodates two dwellings and a large packing shed.
- (4) The packing shed is mostly on Lot 20 but encroaches onto Lot 2. The dwelling is entirely on Lot 2 but relies on access across Lot 20. This application will correct these matters.
- (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 

13 April 2023

Rachael Duncan
Acting Planning and Environment Manager
(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 Into 2 Lots) at 1502 Paradise Dam Road, Coringa; land described as lot 2 and 20 on SP158184. 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 27 March 2023
- (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 17 August 2020), 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 site is in the rural zone (intensive agriculture precinct) and is surrounded by other rural lots.
- (2) The proposal is identified as code assessable against the reconfiguring a lot (boundary realignment) and associated operational works code,
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) Flood hazard overlay code;
 - (b) Bushfire hazard overlay code;
 - (c) Natural features and resources overlay code; and
 - (d) Infrastructure overlay 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

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.
No matters raised in the draft regional plan on consultation is considered relevant to this application.
- (2) *State planning policy*—there are no State interest statements, policies or benchmarks relevant to this application or that are not appropriately integrated. The *Planning Regulations*

2017 requires the assessment against the assessment benchmarks in the SPP, part E, to the extent it is not identified in the planning scheme as being appropriately integrated in the planning scheme

4.3.2 Assessment against the planning scheme

- (1) The application is generally compliant to the reconfiguring a lot (boundary realignment) and associated operational works code, flood hazard overlay code, bushfire hazard overlay code and natural features and resources overlay code. Parts of the codes are not applicable to the application as there are existing structures on the site with characteristics remaining the same.
- (2) As the Council's assessment is limited to the performance outcomes, any conditions must only relate to those assessment benchmarks

4.3.3 Reconfiguring a lot (boundary realignment) and associated operational works code

- (1) The proposal complies with the reconfiguring a lot (boundary realignment) and associated operational works code—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (c) the proposed reconfiguring enables better use of the subject land,
 - (d) there are no new boundaries, and the realignment involves existing road frontages only,
 - (e) boundary setbacks and building density are consistent with rural character in the locality and application will correct current boundary setback noncompliance,
 - (f) site is suitably sized to mitigate nuisance and is consistent with expectations for development in the rural zone,
 - (g) a safe, lawful and practical access to Paradise Dam Road is existing to both lots.

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;
 - (c) the proposed development is partially located within the flood hazard overlay area and does not pose any additional risk in the event of flooding.
- (2) 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;
 - (c) the proposed use will not increase the risk to people or property. The structures are within bushfire impact buffer area.
- (3) The proposal complies with the *Natural Features and Resources 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 proposed boundary realignment improves the productive capacity of agricultural land;
 - (d) the proposal does not introduce any land use conflict;
 - (e) there is minimal impact for environmental values, as there would be no new boundaries and therefore no implied right to clear vegetation along such boundary
- (4) 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) Existing vegetation provides adequate buffer and the existing residential building is setback more than 15 metres from the road boundaries

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Internal review by Civil Works, Water and Wastewater, Disaster Management and Environmental Health teams was not required due to the minimal risks and existing site infrastructure.

4.4.2 External stakeholder comments

- (1) Under Schedule 10, Part 3, Division 4, Table 2 of the *Planning Regulation 2017* reconfiguring a lot (subject to MSES) is referable if—
 - (a) a lot that the application relates to is 5ha or larger; and
 - (b) the size of any lot created is 25ha or less. Therefore, the proposal does not trigger referral.

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 compliant with the relevant assessment benchmarks;
 - (b) *Infrastructure*—the site has access to a constructed road and other infrastructure is existing onsite;
 - (c) *Hazards*—the proposed use would not alter existing hazards with all structures located to mitigate associated risks.
 - (d) *Natural features and resources*—proposal will have minimal impact on environmental values.

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.