

Development application—decision under delegated authority

Reconfiguring a Lot at 20 Normanby Range Road, Mount Perry on land described as Lot 36 on BON662—Code assessable development application under the *Planning Act 2016*

Application reference: DA230020

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot at the property's 20 Normanby Range Road, Mount Perry (described as Lot 36 on BON662) and Towns Creek Road (described as Lot 167 on BON1060).
- (2) The stated objective of the application is to carry out a boundary realignment of the common lot boundary to shift it slightly south of its current position to align with a historical fenceline.
- (3) Lot 36 on BON662 is currently used for a residential activity of a Dwelling house and smaller scale grazing of stock. Lot 167 on BON1060 is a broadacre site with limited to no built-form improvements and is wholly used for a rural activity of stock grazing.
- (4) The proposal would change the common boundary in the northern extent of the site to align with existing linear infrastructure, causing proposed Lot 36 to increase its area to approximately 11.5ha whilst proposed Lot 167 would decrease to approximately 169ha. A transfer of approximately 6.52ha occurs. Both allotments would continue to be used for their existing uses without change or impact and are found consistent with the outcomes expected for the rural locality.
- (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 

Rachael Duncan
Acting Planning & Environment Manager
(Delegate of North Burnett Regional Council)

15 May 2023

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 20 Normanby Range Road, Mount Perry on land described as Lot 36 on BON662. 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 19/04/2023.
- (2) Council issued the Confirmation notice on 03/05/2023.
- (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 v1.3 (amendments commenced 3 Feb 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 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) Bushfire hazard overlay code;
 - (b) 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) A basic 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 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 relevant performance and acceptable outcomes of the code;
 - (c) the lots would be regularly configured and responsive to existing natural features such as Towns Creek;
 - (d) the proposed common boundary is consistent with the historical alignment of linear infrastructure (fencing) that has been established on the land since circa 2002;
 - (e) The revised lot layout provides Lot 36 with an increased land area more compatible to the requirements of the Rural zone, improving its rural capacity, whilst providing negligible change to the balance area of Lot 167;
 - (f) The revised lot layout enables direct access to seasonal Towns Creek on Lot 36 for their stock;
 - (g) Lot 36 would retain its existing residential uses with appropriate levels of access and services. Lot 167 provides a large, balance land area, affording opportunities for future, self-sufficient residential uses to be established;
 - (h) Lawful and practical access is available to each lot from their respective frontages to Normanby Range Road or Towns Creek Road; and
 - (i) New boundaries would be distant from identified MSES and not affect infrastructure.

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 code;
 - (b) it complies with the relevant performance and acceptable outcomes of the code;
 - (c) The development would not cause an increase of persons or property residing in the natural hazard area, nor would it cause an increase to the known severity of bushfire hazard applicable to the site;
 - (d) The development would not cause the presence of bulk storage of hazardous materials to occur in a bushfire hazard area; and
 - (e) Where an existing building, water supply for firefighting purposes is available in the form of water tanks, dams and seasonal creeks.

- (2) 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 relevant performance and acceptable outcomes of the code;
 - (c) The development contains only a small area of MSES in the form of Category R (of least concern) remnant vegetation—most of which is wholly avoided by the proposal, or where conflicting, does not cause new vegetation clearing to occur as the development aligns with existing linear infrastructure which would enable accepted development vegetation clearing to occur;
 - (d) The development would not cause any other new or increased impact to environmental values applicable to the site; and
 - (e) The site is not subject to requirements related to KRA, LRA or Agricultural land classification.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services 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 or any other referral agencies 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*—both lots would be compatibly sized and dimensioned to support their desired function in the Rural zone.
 - (c) *Lot boundary location*—the proposed lot layout would regularise the formal land tenure of the current physical separation occurring on the land from the historical construction of a historical fenceline. The new boundary mostly avoids all relevant MSES applicable to the land or would not otherwise cause any new environmental impact, such as vegetation clearing, to occur.
 - (d) *Lot suitability*—Lot 36's new layout is mostly regular in shape and improves its smaller scale rural capacity by enabling lawful direct access to Towns Creek not otherwise available. Both lots maintain suitable access to respective road frontages and sufficient services arrangements consistent with the rural locality.
 - (e) *Natural hazards*—the proposed realignment would not alter existing known hazards severity, such as bushfire, or cause any increase of person or property located within a natural hazard area.

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.