

Development application—decision under delegated authority

Development Permit for Reconfiguring a lot - Boundary Realignment (2 into 2 lots) at Beronne Road, Gayndah on land described as lot 2 and 8 SP317112—Code assessable development application under the Planning Act 2016

Application reference: DA230012

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment (2 into 2 lots) at Beronne Road, Gayndah; land described as lot 2 and 8
- (2) Proposed lot two (2) will have an area of about 4.810ha and road frontage of 126.3m
- (3) Proposed lot eight (8) will have an area of about 4.478ha and road frontage of 158.2m.
- (4) The stated objective of the application is to gain approval for Boundary Realignment (2 into 2 lots) within the rural residential zone.
- (5) There is an existing dwelling on lot 8 to remain, lot 2 is to remain as vacant land.
- (6) 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 

Mick Jarman
Planning and Environment Manager
(Delegate of North Burnett Regional Council)

19/06/2023

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 - Boundary Realignment (2 into 2 lots) at Beronne Road, Gayndah; land described as lot 2 and 8 on SP317112. 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 20 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 residential zone and is surrounded by other rural lots.
- (2) The proposal is identified as code assessable against reconfiguring a lot (boundary realignment) and associated operational works
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) Flood hazard overlay code;
 - (b) Bushfire hazard overlay code; and
 - (c) Natural features and resources 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.
- (2) *State planning policy*—there are no State interest statements, policies or benchmarks relevant to this application.

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 is an existing domestic dwelling with characteristics of the site remaining the same.

- (2) A more comprehensive assessment against the performance outcome has been completed, however in summary, due to the location of the proposed building being separated from other dwellings and boundaries of the site, the proposal would comply with the relevant performance outcome.
- (3) 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) boundary setbacks and building density are consistent with other developments and rural character in the locality
 - (d) a safe, lawful and practical access to Beronne Road is available to the lot 2 (with a suitable access existing). The additional access location to the south-eastern corner of the lot is to be removed due to driver sight safety.
 - (e) a safe, lawful and practical access to Beronne Road is available to the lot 8 (with a suitable access existing).
 - (f) all structures are outside of the mapped MSES area and as such infrastructure will not affect the identified MSES area.

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 existing dwelling is not located within the flood hazard overlay area and is not at 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.
- (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 new boundary is not located within the identified mapped MSES area and does not pose any additional impact on the MSES area.
 - (d) The proposed development will not cause any additional loss or fragmentation of agricultural land classified as Class A or B.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Internal review by Water and Waste Water, Disaster Management teams was not required due to the minimal risks and assessment requirements for the existing use.
- (2) Advice from Civil Works team was requested regarding the driveway cross-over location for lot 2.

4.4.2 External stakeholder comments

- (1) Not applicable—the application did not require 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) *Intensity and scale*—the development is compatible with the rural character of the locality and considers all site constraints;
 - (c) *Infrastructure*—the site has access to a constructed road;
 - (d) *Hazards*—the proposed use would not alter existing hazards with all structures are located to mitigate associated risks.
 - (e) *Matters of state environmental significance and good quality agricultural land*—will not be adversely affected by the boundary realignment

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.