

Development application—decision under delegated authority

Development Permit for Reconfiguring a lot - Boundary Realignment (2 into 2 lots) at 479 Sandy Camp Road, Mount Perry, on land described as Lot 31 and Lot 32 on BN3721—Code assessable development application under the Planning Act 2016

Application reference: DA240003

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot – Boundary Realignment (2 into 2 lots) at 479 Sandy Camp Road, Mount Perry; Land Described as Lot 31 and Lot 32 on BN3721.
- (2) The site is in the Rural zone (intensive agricultural precinct) and both lots are below the minimum lot size at 29.846ha and 30.857ha respectively. The stated objective of the proposal is to realign the boundary between Lot 31 and 32 on NB3721 to create a smaller ‘rural lifestyle’ lot (2.235ha) and retain the existing house and improvements on the larger rural lot (58.07ha) for family purposes. The applicant advocates that the lots are already well below the minimum lot size for the zone and that the proposal does not create any additional lots below the minimum lot size.
- (3) The applicant further states proposed lots comply with AO1.2 of the Planning Scheme’s boundary realignment code which states ‘if in the Rural zone, no proposed lot is less than one (1) hectare in area’ to which the proposal complies.
- (4) The mapped watercourse and mapped vegetation will be retained on the larger lot (proposed Lot 32). It is currently dissected by the existing lot boundary.
- (5) The minimum frontage widths comply with the 100m requirement specified in the code and both lots have access to a formed road (Sandy Camp Road).
- (6) Reticulated water and sewer are not available to site being in the Rural zone. The existing dwelling has an onsite water supply and onsite septic system which is proposed to be retained. Proposed Lot 31 will be required to have an onsite water supply and onsite septic system at future Building Works. Existing telecommunication and electricity connections are established to the Dwelling house on site.
- (7) 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.



Mike Lisle
Planning and Environment Manager
(Delegate of North Burnett Regional Council)

20 February 2024

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) 479 Sandy Camp Road, Mount Perry; land described as 31 and Lot 32 on BN3721. 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 22 January 2024
- (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 zone lots.
- (2) The proposal is identified as code assessable against Reconfiguring a lot (boundary realignment) and associated operational works code.
- (3) The proposal triggers assessment against overlay codes—
 - a) *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

- (1) A basic assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application.
- (2) Such assessment confirms that the matter is relatively straightforward, however, detailed assessment against the relevant codes completed by the Applicant has been reviewed by the Assessing officer for the record and attached to this report.

4.3.2 State planning instruments

- (1) *Regional plan*—the Wide Bay Burnett Regional Plan 2023—commenced on 15 December 2023, after the lodgement of the development application. The Planning Act 2016 s45(8) enables the assessment manager to give weight to a statutory instrument that commenced after the application was properly made. The WBBRP has little to say directly about the proposed boundary realignment however the following is relevant—
 - (a) *Objective 3.1: conserve and celebrate the culture and environmental features that draw and keep people in the region. Fragmentation is a key issue for WBB’s biodiversity and landscape values. Across the region, the challenge is to reconnect and conserve habitat networks and corridors at both regional and local levels, to repair or enhance biodiversity values of the fragmented landscapes (pg. 109).*

The proposal is consistent with the above objective, ensuring the unmapped watercourse and most mapped vegetation is contained on one lot rather than separated over two lots.
 - (b) *Objective 1.2 Plan for our future (Policy 1.2.10 Managing residential growth in rural areas): Residential development in rural zones should not compromise the use or function of areas or infrastructure of regional economic, environmental or cultural significance (e.g. industrial precincts, Priority Agricultural Areas and areas of high ecological significance).*

The proposed realignment is to create a smaller ‘rural lifestyle’ allotment intended for future residential use (subject to further approvals). The proposal is considered consistent with the above, and future residential development on the proposed lot is not likely to compromise the use or function of areas or infrastructure of regional economic, environmental or cultural significance.
- (2) *State planning policy*—there are no State interest statements, policies or benchmarks relevant to this application that are not already reflected in the planning scheme.

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 and acceptable outcomes of the code as—
 - (i) the boundary realignment results in functional and practical lots;
 - (ii) no additional lots are created below the minimum lot size;
 - (iii) no proposed lot is less than 1.0 hectare;
 - (iv) minimal to no impact on adjoining development;
 - (v) not considered to compromise any surrounding premises future development potential;
 - (vi) suitable connections (electricity and telecommunications) are available to the site (proposed lot 32). A condition of approval is included to ensure telecommunications and electricity services are available to the new ‘rural lifestyle’ allotment (proposed lot 31);
 - (vii) there is significant area to establish future on site services for potential residential uses on Lot 31 (onsite effluent, onsite water supply). Lot 32 will retain existing connections;
 - (viii) access to both lots can be obtained from Sandy Camp Road;
 - (ix) no changes to environmental values occur because of the revised lot boundary.

4.3.4 Overlay codes

- (1) 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 as—
 - (i) the proposal is located and designed to minimise adverse impacts on environmental values on site;
 - (ii) proposed Lot 31 is sited in the north eastern corner of the subject site in the vicinity of an unmapped watercourse however, the realigned boundary ensures the watercourse and associated vegetation is wholly contained on proposed Lot 32, avoiding dissection of the natural feature. Further, the proposal plan demonstrates a 15m setback from the watercourse to the proposed boundary line, ensuring any potential adverse impact on the watercourse is minimised;
 - (iii) the site contains mapped vegetation (category B, C, R vegetation) however, this vegetation is proposed to be contained in proposed Lot 32 and significantly clear of the proposed boundary line;
 - (iv) the site is not mapped as ALC (Class A or B) and therefore the realignment of the boundary does not result in any loss or fragmentation of ALC.

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 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 complies with the relevant assessment benchmarks;
 - (b) *Lot sizes (design and response to constraints)*—The proposed lot sizes 58.07ha and 2.235ha are below the minimum lot size prescribed in the *Planning Scheme* for the Rural zone however, it is noted the current lot sizes are also less than the required 100ha at 29.846ha and 30.857ha respectively. The proposal does not create any additional lots below the minimum lot size. It realigns the boundary to create two lots of functional shape and size. It produces a reasonable planning outcome by containing the unmapped watercourse, most of the regulated vegetation without conflict, and existing improvements on the larger lot (Lot 32). Further, the proposal creates a smaller rural lifestyle lot (Lot 31) in a mostly unconstrained and accessible location with sufficient area for future residential use.
 - (c) *Infrastructure*—Both lots have access to a constructed road (Sandy Camp Road)
 - (d) *Hazards*—the proposed realignment would not alter any existing hazards;
 - (e) *Infrastructure (non-trunk) works- access and service connections*—Existing access is to be retained to proposed Lot 32 from Sandy Camp Road. A new access to proposed Lot 31 would be required at future Building Works in accordance with applicable standards. Reticulated water and sewer are not available to site and being in the Rural zone, are not required to be connected. Proposed Lot 32 would retain existing onsite effluent disposal system and onsite water supply. Proposed Lot 31 would be required to facilitate these connections at future Building Works. Conditions will be

included to ensure telecommunications and electricity services are available to the new 'rural lifestyle' allotment (Lot 31).

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.